

# THE GOVERNANCE OF MODERN BURMA

By

J. S. FURNIVALL

Second edition enlarged, with an  
Appreciation by Frank N. Trager  
and a Supplement on the  
Ne Win Administration by  
John Seabury Thompson



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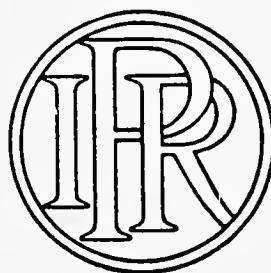
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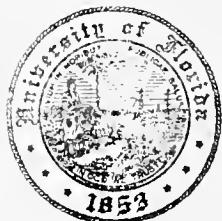
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JOHN SYDENHAM FURNIVALL, FEBRUARY 14, 1878-July 7, 1960. AN APPRECIATION

By Frank N. Trager

Professor of International Affairs, New York University

Near the end of the Summer in 1958 my wife and I were having tea in the study of J. S. Furnivall's suite, located in that remarkable Victorian-named institution, The Home of the Waifs and Strays, the best run social agency in Burma, with Daw Tee Tee Luce, (wife of Gordon Luce) as its presiding genius. As usual, we talked of Burma and started by reviewing my notes of interviews concerning the split in the Anti-Fascist People's League. We were not a little concerned over the intensely personal and apparently irreversible antagonisms which had caused the split and were mindful of the difficulties inherent in the military take-over, rumors of which were already in the air. (Our trip to Sandoway and Kyaukpyu had been cancelled because of military movements.) Our appraisals of the situation shared a common understanding and prognosis, though, as usual, I was trying to learn something from the greatest scholar on modern Burma. Each of us subsequently published our findings, Furnivall's in this, his penultimate monograph, The Governance of Modern Burma, completed and first published in January, 1959.

The setting of The Home is relevant to an understanding of both J. S. Furnivall and Gordon Luce, a breed of men who came to Burma (Furnivall in 1902) as members of the Indian Civil Service but who were invited to serve Burma after she regained her independence in 1948. Tall, spare, ram-rod, twinkling-eyed Furnivall, a dozen years or so senior to ruddy-faced, white-thatched Gordon Luce, quipping at the latter in his tight-lipped, dryly humorous way, planning the weekly musicale or literature reading (carrying forward a cultural habit begun shortly after World War I), ever-mindful that Daw Tee Tee would really have the last word whether to them, to her 125 "waifs and strays" (deprived by death or delinquency of immediate family), or to the Prime Minister. (Her "boys" were almost invariably graduated into productive labor and social usefulness). Gordon Luce, poet and historian, rarely strayed beyond the Eighteenth Century and more happily remained engrossed in the riches of Burma's Pagan period, whereas Furnivall, an activist as well as a scholar, was concerned with whatever happened to and in Burma after the arrival of the Europeans. Together their work spanned Burma's known history, creatively based on a profound bilingual familiarity gained by living for many decades in the Burmese setting.

Furnivall was posted to Burma after he had completed the Natural Science Tripos at Trinity College, Cambridge, in 1899, and had passed the I.C.S. examinations. He retired from the Service and returned to England in 1931. He was enabled to study in Holland and Java during 1933-35, and out of this came his Netherlands India (1939). It was at this time, too, that he extended his Southeast Asian research to include his (still unfinished) work on the Philippines; he resumed his research on this during his visit to the United States in 1955, hoping eventually to round out a study on the Islands and compare the colonialisms of England, Holland, France and the United States. (Though he had published some articles in the Journal of the Burma Research Society on the Portuguese

period in Burma and Southeast Asia, he had not, to my knowledge, written much, if anything, on Spanish colonial rule).

Furnivall spent the next seven years, 1935-1942, at Cambridge University as I.C.S. Lecturer in Burmese. Then the (British Government of Burma requested his views on post-war solutions to the long-standing colonial problem of Burma. The outcome of his work on this, subsequently published in 1949, was the classic, Colonial Policy and Practice. There is no evidence that his views were favorably received. Acceptance would most probably have avoided the Churchill Government's calamitous White Paper of 1945 which, as Furnivall elsewhere remarked, called for a "reversion to executive rule as it had functioned in Burma before the political reform of 1923....Everything was to be as it had been before the war, only more so." On the eve of Burma's independence he was invited to return to Burma as Adviser on National Planning to the Union Government, serving in that capacity in the Office of the Prime Minister from 1948 to 1958.

Several times during that decade Furnivall expressed the thought that it was time for him to retire permanently. His views on national planning and the economy were regularly and frankly given, if not always accepted. However, his relations with Prime Minister Nu were such that the latter always prevailed upon him to stay and to work on some project which needed doing -- the last being an intensive study, The Social and Economic Development of Burma. I believe that Furnivall was persuaded to remain, also because he had not yet esthetically decided the final shape of his life: whether it would be fitting and proper for him to die in harness in Burma or to retire to Cambridge for which he had special affection.

The advent of General Ne Win's "Caretaker" government in October, 1958, apparently decided him. This was a new phase in Burma's history with men (except for the General himself) mostly unknown to him. He agreed to complete a draft of the first Part of the above-mentioned study consisting of two major Sections -- Statistical data, divided into periods, and an Interpretation of each such subdivision. The second Part, (a synthesis) was contemplated and discussed as a subsequent effort to be undertaken in behalf of the Burma Historical Commission. His work on this project filled 1959. Before the February, 1960, elections (which returned his friend U Nu to power) he made plans to rejoin his surviving daughter, Mrs. Marjorie Ady and his grandchildren in Cambridge. He sailed back to England in April, 1960, on the steamer Martaban, which most certainly must have reminded him of one of his early tasks, the editing of "Mr. Maingy's" (and others) Correspondence for the years 1825-26 to 1842-43...Office of the Commissioner Tenasserim Division (Reprint, 1929). This later led to his monograph, The Fashioning of Leviathan (1938), both based on material following the annexation of that province (and Arakan) after the first Anglo-Burmese War, 1824-1826.

He left Burma amid an exhausting and affectionate outpouring of farewells. The Guardian (Rangoon, April, 1960) summed these up in a warm editorial: "Farewell Thado Thiri Thudhamma Dr. J. S. Furnivall". (Furnivall had been invested with Burma's highest order, the Order of Thudhamma, for his meritorious service to the government), thus calling attention to the Governmental award (1949) and the University's Honorary Doctorate of Literature (1957), both sparingly granted to foreigners. To the Burmese, in the words of the editorial, Furnivall was the "Grand Old Man of Burmese Scholarship" who had given "his unstinted services to

this country which owes a great deal to him for the enlightenment he has brought about among the present generation of young Burma." The editors were rightly confident that he would "carry away with him fond memories of his dear disciples and our dear land which he loves so much. On our part, memory's song will forever sing in our ears." These were the not lightly chosen words -- "enlightenment" and "disciples" -- given to a saya, a teacher, second in the Burmese value-system only to the pongyi who devotes himself exclusively to the Eightfold Path of the Buddha.

Shortly after Furnivall arrived in Cambridge early in May, we again exchanged correspondence and were planning to spend some time together in England in the summer of 1960. I had hoped to work with him on an annotated bibliography of his published and unpublished writing, a project which we had started in 1958. He had planned to start on the second Part of The Social and Economic Development of Burma and to review the mimeographed sections of the first Part which he had earlier sent to me and to William L. Holland of the Institute of Pacific Relations. (In the last two decades, the I.P.R. had become his major publisher and distributor in the United States.)

But our plans were changed. As his daughter subsequently wrote to me, they had six weeks of fine English weather and a holiday. Then, late in June, he suffered a stroke from which he did not recover, and he died on July 7.

I had not met Furnivall until I went to Burma for the U.S. Economic Cooperation Administration in September, 1951. However, having had the prior benefit of his pioneer writings, especially Introduction to the Political Economy of Burma (1931) and Colonial Policy and Practice, and knowing that the Union Government had invited him to return to Burma as National Planning Adviser, I was determined before all else to weigh their relevance to the tasks of the U.S. aid program, already somewhat snarled between what Washington had proposed and what Rangoon was prepared to accept. (The difficulties were not all one-sided -- but that is another story.) We met for the first time on the still "tainted" grounds of the Pegu Club, symbol of pre-independence British exclusiveness. Furnivall sensed my unspoken comment. As we sat down he quickly and quietly said: "You know, there's a housing shortage. They found space for me here." We immediately became friends and continued so from then until his death. During my tour of duty I had the advantage of his immense knowledge and incisive comment. We met again in the United States during 1955 and in Burma in 1956 and 1958. Always there was some "Burmese" work of mutual interest in progress and we shared an intermittent correspondence; in all these nine years, I cannot remember a time when this was not so.

The Social and Economic Development of Burma was to be his crowning effort devoted to an analysis of Burma during the British connexion. It is a study from 1862 onwards, the year in which the three annexed divisions of Burma, Tenasserim, Arakan (War of 1824-26) and Pegu (War of 1852) were incorporated as a single Province within British India under a Chief Commissioner. Furnivall had completed an exhaustive re-examination of official reports (the annual and the related British documentary series) which began in that year. He had also painstakingly collected -- and knew more about than anyone else -- the ill-preserved Burmese records or settans. He had mined this material for the already mimeographed descriptive and interpretative sections of the study. Its eventual publication, inevitably

deprived of its completion, will none the less prove of substantial value to future students of Burma.

I have called Furnivall an activist as well as a scholar. This was no idle reference. For not only had he produced a shelf of scholarly works which no student of Burma can fail to consult with profit, but he had also found time, beyond his administrative service in the British and Burmese governments, to encourage and to help create a number of educational and other institutions in Burma. He was a founding member of the Burma Research Society and its Journal (1910). He organized (in the 1920's) Book Clubs and book stores to help in the distribution of English-language books when these were in short supply for Burmese students. Similarly, he was a founding member of the Burma Education Extension Association and the Burma Council on World Affairs (Since 1958 a National Council of the Institute of Pacific Relations), both these latter associations being designed to extend Burma's meager avenues for non-university adult education. He initiated and taught courses in economics, at the University of Rangoon preparing the first Burma-centered textbook (his Introduction) on the subject when the British educational authorities did not deem it necessary to do so. He put to use his extensive knowledge of the villages, derived from his I.C.S. Settlement Officer assignments, to post-independence Commissions charged with the responsibility for devising democratic local and village administration -- a system which would attempt to harmonize the values of pre-colonial and colonial experience. He translated into English Prime Minister Nu's memoir on Burma Under the Japanese. His was a busy and fruitful life.

It is obvious that these lines have been written in undisguised admiration for a notable human being who patiently and brilliantly shaped his life so as to fulfill freely chosen personal and social obligations in rich inter-cultural scholarship and action. When Furnivall started in Burma in 1902, he had the advantage of good scientific training. His social philosophy appears to have been at the crossroads between Nineteenth Century British Liberalism and Fabian Socialism. His experience with colonialism in Burma gradually inclined him even more to a variant of non-marxian social democracy. But he was never concerned with socio-political labels either for himself or for others. Social science concepts of efficiency, progress, plural society, welfare, social justice, cultural integration (and related others) continued to serve him as both tools of inquiry and norms for judgment.

Essentially he had found that the colonial powers frequently brought "progress" to the colonies but at the expense of cultural disintegration or alienation. "The people," as he wrote in Colonial Policy and Practice, "no longer feel at home even in their home." Foreign rule and foreign ways give rise first to the nationalist movements which seek to oust colonial power. This in turn is followed by the difficult search for both individual and collective autonomy to re-integrate the formerly colonial society. At this point Furnivall's social philosophy becomes prescriptive. He argued that, though we cannot wholly escape the consequences of the past, we can and should encourage the conditions necessary to bring about freedom and cultural integration in former colonial societies. He presented his theory in a variety of his writings over the decades but nowhere more persuasively than in the concluding pages of Colonial Policy and Practice, penned during World War II. The historical events since then in the Afro-Asian colonial

and ex-colonial world document his theory. As I write these lines, the experience in the former Belgian colony (now The Republic of the Congo) adds one more corroboration. Furnivall concluded that such international conduct as he advocated on the basis of his long experience with colonial societies is desirable, not as an altruistic boon to be granted (grudgingly or otherwise) to "nationalist agitation," but rather as a realistic measure, required for the democratic attainment of world welfare.

Let this right judgment be his epitaph as it was the chief among his manifold labors.

July, 1960

PREFACE

Quid leges sine moribus vanae proficiunt?

Of what avail are forms of law in default of social order?

Horace: Odes. III, 24.

During the past ten years a long succession of visitors, distinguished and undistinguished, variously expert or frankly inexpert but inquisitive, have found their way to Burma. Some have tried to understand the working of the machinery of government and have come to me for information. The forms of political institutions in Burma are largely modelled on English institutions from which they are derived. Many visitors were Americans who seemed as ill-acquainted with English political institutions as most Englishmen are with theirs, and they were still less able to understand the distorted forms which English institutions have assumed in Burma. English visitors were sometimes puzzled because institutions with English names and forms did not function in the same way as in England. This was unreasonable. Institutions could not operate in the same way as in England because they had different functions to perform.

This diversity may conveniently be illustrated with reference to local government. Some Americans regard the English system of local government as inefficient and undemocratic and some Englishmen have much the same opinion regarding local government in America. Tammany is a by-word of reproach. Yet in both countries local government seems on the whole to give people pretty much what they want. But if the aim of local government in Burma were merely to give the people what they want, the result would not be very satisfactory, especially with regard to public health and sanitation. One can see this without going out of Rangoon. The government of Rangoon Corporation is in the hands of the people. If they wanted a cleaner and healthier city they would insist on drastic action by the Corporation. But the local Councillors know very well that drastic action would cause an immediate outcry against oppression and that they would be unseated at the first opportunity. The same considerations apply with even greater force in rural areas.

In spite of the new requirements of social life consequent on the absorption of Burma in the economic system of the modern world, the people in general would be quite content to go along, so far as possible, as they have always done. They are impatient of the social discipline which modern circumstances necessitate. The basic problem of local government in Burma is, not to give the people what they want, but to induce them to want what they need, and meanwhile to introduce as much sanitary discipline as they will stand. The function of local government in Burma is directly contrary to its function in the West; neither the American nor the British system of giving the people what they want will yield satisfactory results in Burma, and the forms of local government must be adapted to the functions which it has to perform.

The same principle applies to the national government. In Britain there is a stable national society, deeply rooted in the past and fundamentally united in the intention to promote national welfare. This find expression in its special type of political institutions, though in the

emergency of war (and also in some economic crises) many traditional liberties had to be curtailed. In Burma, on the contrary, the main function of government is to create unity in a disintegrated social order and fit the people for social and economic life in the modern world in which they have, quite recently, been absorbed. Yet the forms of government inherited from British rule were as little suited to the new functions of government in independent Burma as were the forms originally inherited from Burmese rule. How these forms can be adapted to the political social and economic conditions of new Burma is a problem of infinite complexity. If one seeks a parallel in America to modern Burma, one must go back to the last quarter of the 18th century when the United States were hardly yet united states and, for all the Declaration of Rights, the constitution was still in the melting pot; there indeed one may find numerous interesting and instructive (and encouraging) analogies with modern Burma. Burma is still attempting by a process of trial and error to devise, institutions with a due correspondence between form and function. That is one reason why it is difficult for foreigners (and even Burmans) to understand them.

It was often suggested to me that I might write an account of them and the task seemed worth attempting as a study in the adaptation of form to function; but for various reasons I was reluctant to undertake it, and when I did so, I was not very well satisfied with the result.

Apart from any shortcomings in the performance, there were two inevitable defects. I had given only a static picture of a dynamic process, a still photograph for a subject that needed a cinematograph. It changed even while I was describing it, and the study would be out of date before it could be published. Again, I had described the machinery as carefully as I could, how it had acquired its form and how it was meant to function. But no one could tell how it really worked in practice. All I could present was a mere skeleton. To clothe it with flesh and blood, so far as this was at all possible, seemed to require the assistance of a Burman with access to the storehouse of pazat yazwin, living oral history. And when, in May 1958, the AFPFL collapsed, my first reaction was to abandon the whole project.

But my friend Mr. William L. Holland, Secretary-General of the Institute of Pacific Relations, insisted that the work might still be of some use to students engaged on research in applied political science. The new situation had indeed mitigated the force of the arguments against early publication. There could be no further continual changes along the former lines, for the break-up of the AFPFL marked the definite close of one stage in the process of political evolution. It is still impossible to fathom how far the spate of rules and regulations took effect in actual practice, but the recriminations of divided leaders have opened to the outside public a few pages in the chronicles of the pazat yazawin and thereby revealed some of the strains to which the machinery had been subjected. They have brought to light some remediable defects, but they have made it clear also that the catastrophe was due not merely to the frailty of human nature, but in great measure (perhaps in much greater measure) to the contradictions inherent in the problem which ten years earlier they had tackled so courageously with little but optimism and enthusiasm to support them. The immediate prospect may seem dark and doubtful, but it is permissible to hope that Burmans may be the richer for the loss of some illusions.

J. S. FURNIVALL

Rangoon, September 1958



## CHAPTER I. THE BACKGROUND

### 1. Form and Function.

It is an elementary principle of mechanical construction that a machine should be so designed as to work to the best advantage; unless there is a close correlation between form and function it cannot attain a high level of efficiency. The same principle holds good in social engineering, but too often is disregarded. In territories subject to the British Crown, it is only natural that authorities attempting the problem of designing machinery for self-government should have taken English institutions as their model; they have tried to reproduce, as closely as seemed expedient or possible, the form of the machinery without sufficient regard for differences in the environment and in the functions which it is intended to perform. That is one reason why such experiments have often failed to yield satisfactory results. In earlier days, when the system of government was purely authoritarian and the authorities attempted little beyond the maintenance of law and order, a closer correlation between form and function was possible and, within its narrower limits, the government could be more efficient. But the social engineer never enjoys quite the same freedom as the mechanical engineer who can design machinery solely with reference to its functions. The social engineer never starts with a blank sheet of paper; there is already a drawing on the blue print. He must take the existing machinery and adjust it to his purpose; he may scrap much of it, but even the most violent revolution does not wholly obliterate the past.

A similar difficulty hampers any attempt to depict a system of government which is still in operation. The description of a mechanical construction may suffice to explain its working, because its functions are implicit in its form. A schedule of the mechanism of a government, however, may be very misleading, especially if it has undergone great changes; one must take into account the way it works. The form of government is largely a product of the past; its functions express the aspirations of the people, or at least of their leaders, for the future. The structure of the government is the resultant of these two factors; its stability and efficiency depend on the success with which the form and functions have been harmonized. Thus a description of a system of government requires more than a bare analysis of its structure; one must examine the system as it works in practice.

There is a further difficulty in such an enterprise. When Bagehot in 1872 set about bringing up to date the account of the British Constitution that he had written only five years earlier, he found the task impossible. In sketching a living Constitution, he said, the chief difficulty is "that the object is in constant change .... a contemporary who tries to paint what is before him is puzzled and perplexed; what he sees is changing daily." But the fever-heat of constitutional development in Burma during the past few years blurs the outline until perplexity borders on bewilderment. Hardly anywhere is there a clear line between what was and what is, or between what the Government is doing and what it hopes to do. It is important moreover to recognize that the adjustment of old forms to new functions is a two-fold process, involving changes in law and changes in practice, and these rarely coincide.

The basic administrative machinery of Burma was built up during the period of close on a hundred years, from 1826 to 1923, when its essential features were the responsibility of the Government, through the Government of India, to the Parliament in England; the concentration of authority at the centre of government; and control over legislative functions by the Executive. <sup>1/</sup> This machinery had to be readjusted for the performance of new functions in 1923, when Burma was granted partial autonomy, and again in 1937 when, simultaneously with the grant of wider autonomy, Burma was separated from India. Then, in 1942, there was a much more drastic readjustment of the machinery to adapt it to the conditions of the Japanese occupation. With the restoration of British rule in 1945, the machinery did not, and could not, function in the same manner as before the war, nor could the older forms be reconstructed. The extent of the readjustment then found necessary is indicated by the fact that within a little over two years, the legislature passed nearly two hundred new enactments. Subsequently, with the attainment of independence, the new Government passed more than five hundred Acts between 1948 and 1956. Many of these new Acts were frequently amended, and some were repealed to be replaced by still newer Acts. Almost all the major Acts contain provisions empowering the President to make rules which have the force of law, and generally the implementation of an Act depends on orders passed by executive authorities; to understand the legal consequences of legislation one must study these rules and orders. Also, most Acts empower the President to fix a date when the Act or any of its clauses shall come into effect over the whole country or over any part of the country. Thus the law is not uniform everywhere. For example, in some districts local government is regulated by the Act of 1953 for administrative reorganisation while in others the District Councils Act of 1921 and the Municipal Act of 1898 are still in force. In these circumstances any general statement regarding the formal structure of government must be read as subject to exceptions.

Furthermore, one must take into account the inevitable divergence between law and practice. The machinery of government is not mechanical; it is vital, consisting of human beings with human limitations and with a human prejudice against new-fangled notions. Administrative officials are comfortable in their habitual routine; they tend to resent changes and to go on as before even when they are supposed to be doing something different. Reforms often pass over their heads. In the Report of the Indian Statutory Commission of 1930 it was noted that in Burma the constitutional reforms of 1923 had made little difference in the working of the Departments; even those Departments which had nominally been transferred to popular control "for the most part carried on as in pre-Reform days." <sup>2/</sup> Sometimes during recent years Rules framed under new Acts have, for greater facility in drafting, been modelled on Rules framed under pre-war Acts, so that, although purporting to give effect to the new Act, they are inconsistent with its purpose; for instance Boards intended to work on commercial lines have been crippled by restrictive regulations. Even where the process works more smoothly, there must always be a time-lag between the enactment of a new measure and its implementation. The duration of the time-lag depends largely on the magnitude of the change

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1/ Indian Statutory Commission, Report. 1930, i, p. III.

2/ Ibid., xi, p. 577.

involved, and this is indicated by the spate of new legislation. Formerly the driving power behind the administrative machinery was free enterprise in the interest of economic progress; now, under a national government, economic enterprise must be kept under control in the interest of national welfare. This involves putting the administrative machinery into the reverse gear, so as to go forward in the contrary direction. It is no longer sufficient for clerks to put the usual figures in the usual columns and dispose of papers in the usual files without the trouble of thinking. The correlation of form and function in the new environment requires that not only clerks but also officials, high and low, and even the general public, must come to accept their new responsibilities. This must be a gradual process, and at present one cannot ascertain with any precision how far reforms in practice have kept pace with reforms on paper. But it should be possible to describe the formal structure of the government as laid down in the Constitution and the law, to state the more important problems with which it is confronted, and to give a general indication as to the way in which it functions. In view of the status of Burma as a newly independent country, formerly a province of the British Empire, and of its situation as a buffer state between the two great power blocks of East and West, an attempt to set these things in order may be of more than local interest. First, however, we must examine the background against which modern Burma must be viewed.

## 2. Geographical Background.

The Union of Burma is a federation in which all the powers of government, legislative, executive and judicial, are exercised by organs of the Union except so far as they are specifically delegated under the Constitution to four constituent units; the Shan State, the Kachin State, the Kayah State and the Karen State. The character of the federation is dictated by the physical and political geography of Burma. The total area of the Union is about 260,000 square miles. The last census before the attainment of independence gave the population in 1941 as 16,823,798. For 1957 the United Nations estimate was 20 millions. Burma proper, the area within which the organs of the Union possess full powers, consists mainly of two riverine systems; the valley of the Irrawaddy, rising in the mountains of Tibet and traversing the whole country down to the sea below Rangoon; and the valley of the Sittang, running parallel to the lower Irrawaddy on the east. It also comprises the estuary of the Salween River which for part of its course forms the eastern boundary of Burma, and two coastal strips, Arakan bordering the Bay of Bengal, and Tenasserim running down into the Malay Peninsula. All round the Irrawaddy and Sittang valleys, ranges of hills, off-shoots of the Tibetan mountain complex, cut off Burma from its neighbours. Within these hills lie the territories of the four constituent States. Another offshoot from the same system penetrating Burma between Arakan and the Irrawaddy valley constitutes the Chin Hills, a Special Division of Burma proper which has more in common with the hill States than with the lowlands.

Burma, secluded from the outer world by mountains and the sea, appears destined for political unity by nature. Anthropological relationship and economic circumstances reinforce the trend to unity. For the indigenous peoples are all of mongoloid stock and, at least remotely, akin; and the land, with a wide range of soil and climate, can provide all that by the standards of south-east Asia is requisite for modest comfort. Yet there

are many points of difference between the peoples of the lowlands and of the hills. The Burmans of the lowlands are predominantly Burmese <sup>3/</sup> with comparatively small minorities of Mons, Karens and Shans; almost all of them are Buddhists; they cultivate land on permanent holdings; they all, even those who regard themselves as racially distinct or profess a different religion, have in common much the same way of life; nearly every one can speak Burmese almost as naturally as their mother-tongue, and most of them have learned to read and write Burmese. In all these things which the peoples of Burma proper have in common, they differ from the peoples of the hills.

The hill peoples fall into a few main groups. In the extreme north of Burma there are the Kachins; on the north-east the Shans and, east of these, along the Chinese border, one finds most of the Palaung-Wa tribes; further south, bordering Thailand, are the Kayahs (formerly known as Karenis), and, reaching down into Tenasserim, the Karens. The other main group, the Chins, occupy the hills between the Irrawaddy valley and Arakan. The hill tracts, spread over 113,000 square miles, form nearly half (47 per cent) of the total area of Burma; but the population in 1941 was less than  $2\frac{1}{2}$  million (about 16 per cent). Nowhere is the hill population homogeneous. Of the peoples in the Chin Hills 95 per cent call themselves Chins, but they consist of four main clans and innumerable minor groups differing in language, custom and traditions. In the Kachin region less than half the inhabitants are Kachins. Settlements of representatives of all the groups except the Chins are widely dispersed among the Shans. The Shans are, nominally at least, Buddhists, but the other peoples are mainly animist, though Buddhism is spreading and many have recently adopted Christianity. Shifting cultivation predominates and some of the smaller groups have barely emerged from the stage of food-gathering. There are well over a hundred different languages or mutually unintelligible dialects, sometimes with a range of no more than a few villages. Only the Shans had any written language until missionaries provided most of the major groups with alphabets; and everywhere illiteracy still prevails. Difference of speech is usually associated with difference of custom, and each group with a distinctive language and customs tends to regard itself and to be regarded as racially distinct.

In these circumstances a federation embracing all these peoples and aiming to draw them into closer unity required a very special character.

### 3. The Historical Background.

As far back as the 11th century, Burmese supremacy extended over the whole country within its natural physical boundaries, and all the hill peoples have at some time recognised the suzerainty of the Burmese crown. For them the Burmese court was the centre of civilisation. The kings of Burma however were in general content to receive occasional propitiatory tribute and normally abstained from interference in the internal affairs of the innumerable petty states and tribal chieftains, who were left to rule their people according to their own customs.

3/ It is convenient to distinguish as Burmese those who speak the Burmese language as their mother tongue, whereas the inhabitants of Burma in general may appropriately be called Burmans.

Even within Burma proper the administrative system was a product of gradual evolution through the accumulation of custom over many centuries. The chain of authority was inextricably confused, in part territorial and in part quasi-feudal. There was no clear distinction between the various functions of government, and the same official who collected revenue would also try civil and criminal cases. The system of law and the legal procedure were wholly incompatible with the contractual notions of the West. Two characteristic features should be noted. One was the system of indirect rule by officials of the central government through hereditary local chieftains. The British government for some years adopted something very like it, and in a modernised form the same principle colours local government in independent Burma. Another characteristic was the large measure of autonomy enjoyed by the Buddhist religious order; this was lost under British rule but to some extent is now being restored.

British rule was extended over Burma piecemeal in three stages; in 1826, 1852 and 1886. The territory taken over by the British formed part of the possessions of the East India Company until these passed to the Crown in 1858. In 1826 the Company acquired the two maritime provinces, Arakan and Tenasserim, and these were linked together by the acquisition of Pegu in 1852. Each province was governed separately under the Government of India until all three were amalgamated in 1862 as one province, British Burma. In 1886 the annexation of Upper Burma completed the conquest of the whole country, including the vast expanse of tribal hills all round the frontier. The whole of Burma within its natural boundaries then became a province of the Indian Empire.

The supreme authority in Burma was the head of the executive government, who administered Burma proper on a system of direct rule, and the tribal hills indirectly through their own chieftains. In 1923 a certain measure of autonomy was conceded to a partially elective legislature, but the tribal hills were left under the Governor as "backward areas." In 1937 Burma was separated from India and the Governor became responsible to the British Government instead of to the Indian Government; at the same time the legislature was given wider powers, though the tribal hills were still left under the Governor. Under executive rule the British Government fashioned a strongly centralised form of administration which was suitable for the maintenance of law and order and such other functions as the Government was then expected to perform. After the constitutional reforms from 1923 onwards the former administrative machinery remained essentially unchanged, and continued to work in much the same manner as before, though with more friction, because of the discrepancy between form and functions.

When the Japanese occupied Burma in 1942 they retained the same machinery, though adapting it to suit their own convenience. In 1945 the British Government, on returning from exile, purged the administrative system of anything that seemed Japanese, but otherwise made only such changes as the post-war situation was thought to require. When Burmans attained their independence they naturally and inevitably took over the existing machinery of administration. The senior officials, the secretaries, judges, magistrates and administrative officers in general had been trained under British rule and -- more important because less adaptable to changes -- so also had the clerical establishment. The British administrative system was the only system that Burmans knew and they could

not scrap all the old machinery; they had to make do with it and very often make it do many things for which it had never been intended. New machinery was needed and invented, but it had to fit in with the old. Experiments along new lines were made and are still being made. Gradually there seems to be evolving a closer correlation between the form of the government and its new functions, but this must be chiefly by the slow and often frustrating process of trial and error. Meanwhile the structure of government in Burma is essentially a product of British rule, and much that British rule contributed will almost certainly be a permanent feature of any government in Burma. An appreciation of the present structure of the government must begin therefore with a brief survey of the distinctive characteristics of British administration and then note any outstanding developments under the Japanese and after the restoration of British rule. This should help to elucidate the main structural lines, the form of the Government. But its functions, what it does or aspires to do, represent its reactions to its environment, and we must therefore briefly examine the results or consequences of foreign rule with a view to depicting the environment within which the administrative system works and by which it is conditioned.

#### 4. Administrative Background.

The foundations of the machinery of government in modern Burma were laid under British rule, and an exposition of the present structure might be very misleading if read without reference to the system from which it is derived. It seems expedient therefore to attempt a brief explanation of the arrangements under British rule with regard to territorial administration, departmental machinery, local government and local self-government, the government of the hill tribes, the judiciary, the secretariat and the legislature.

(a) Territorial Administration. As already mentioned, one characteristic feature of British rule was the high concentration of authority at the centre. A central government may exercise its authority through a territorial agency or through a functional agency. During the nineteenth century, when British rule was taking shape in Burma, it was an accepted principle of English political theory that, so far as practicable, the functions of government should be confined to the maintenance of law and order. Accordingly the administrative system was organized on territorial lines, and local authorities were responsible, through a chain of superior authorities, to the head of the government, for the maintenance of law and order and for such other functions as might be imposed on them. After the annexation of Upper Burma in 1886, Burma proper, excluding the frontier region, comprised eight (subsequently seven) large Divisions; in each Division there were three or four Districts; in each District, two or three Subdivisions, and in each Subdivision, two or four Townships. The township, with an area typically of about 50 square miles, was the smallest unit of general administration. A township usually included three or four of the largely autonomous charges under hereditary chieftains that had been a characteristic feature of Burmese rule; in the first instance these charges were taken over as "circles" and the former chieftains became "circle headmen"; but towards the end of the nineteenth century these circles were broken up into village tracts, normally about 50 village tracts to a township. These are dealt with below under the heading of local government.

In each division there was a Commissioner; in each district a Deputy Commissioner; and, for the subordinate units, there were Subdivisional and Township Officers. The officers exercising jurisdiction over these various charges constituted the administrative Civil Service. The superior or Indian Civil Service (Class I) was predominantly, and until 1923 exclusively, European; the Provincial Civil Service (Class II) was predominantly Burman, though it included some Eurasians; the Subordinate Civil Service, (Class III) was almost exclusively Burman.

Until the end of the nineteenth century the British administrative system resembled the Burmese system in that the officials in charge of general administration all performed all the essential functions of government; they tried civil cases as judges, and criminal cases as magistrates; they collected the revenue and were generally responsible for the promotion of welfare throughout their local charges. They all did the same kind of work within the limits of their respective judicial, magisterial and revenue powers, which were graded according to their rank and seniority. During the present century, as explained below, they were mostly relieved of civil judicial work but otherwise they were still, like their Burman predecessors, omni-competent. But the British administrative system differed from the Burmese system in one essential feature: Burman officials had been subject only to the indefinite restraint of custom; British officials in all their activities, inside and outside their Court, in the collection of revenue and the promotion of welfare no less than in their magisterial functions, were strictly limited by law. In any matter, if they went beyond the law, their orders were liable to be appealed against and set aside. The whole system was based on law, and the primary responsibility of all officers in charge of general administration was the maintenance of law and order. This graded territorial system, with each official subordinate to his immediate local superior, was the steel frame of British rule.

(b) Departmental Machinery. The system described above remained the standard pattern of administration throughout the nineteenth century. Alongside the Deputy Commissioner there were in most districts a police officer, a medical officer and a public works officer. But these were inferior in status to the Deputy Commissioner, who was officially responsible for all aspects of administration in the district. When the progress of development made the burden too heavy for one man, he was given the assistance of additional judges, magistrates or revenue officers without any deviation from the standard pattern of centralized territorial rule. In time, however, and especially during the present century, the pursuit of efficiency led to the multiplication of special services of departments, each with its own Director at the headquarters of the Government. By the time of the Japanese invasion there were some forty such departments, large or small with their own special functions, so that, superficially regarded, the organisation appeared functional rather than territorial.

But appearances were deceptive. All the more important departments were ordinarily represented in each district, but the departmental officials had no authority over the people except through the Township Officer and local headmen, and these were subordinate only to the Deputy Commissioner, so that the specialist officials had to look to the Deputy Commissioner for support. Although the administrative system came to

have the semblance of being functional, in fact the Deputy Commissioner was more than ever the hub on which the wheels of the administration revolved, and the system was no less territorial than before.

In certain respects however the multiplication of specialist services implied fundamental changes in administrative procedure. Formerly the Deputy Commissioner, if faced with any problem, could see it as a whole. But a specialist could look on it only from the standpoint of his department; he had no concern which other aspects of the problem, although very few social problems have only one aspect. Specialists were multiplied for the purpose of greater efficiency, but the consequent tendency to departmentalism was a barrier to efficiency. The remedy for departmentalism was coordination, but it was only at the headquarters of the government that co-ordination was possible. Any new proposal would go up to the departmental Director for approval; he would put it before the Secretary dealing with his department who alone could get in touch with the Secretaries concerned with other aspects of the problem. Each of these would probably write to the Deputy Commissioners concerned to ascertain their views, and any final orders on the subject would be addressed to the Deputy Commissioner by the Secretary dealing with general administration. This roundabout procedure aggravated another defect inherent in any system of administration where new measures are initiated from above instead of from below. The implementation of such measures needs careful and continuous attention. Not infrequently, during the lengthy process of obtaining approval for any innovation, the sponsor of the project would have left his former charge and been succeeded, quite possibly, by a man with very different views. No satisfactory solution for these three problems of departmentalism, coordination and lack of continuity was ever found under British rule. In taking over the former administrative system the new government of independent Burma took over the former problems and now, with its zeal for promoting welfare in every aspect of social life and the consequent multiplication of departments and services, the old problems have become even more formidable.

(c) Local Government. As mentioned above, the Burmese kings governed the country by indirect rule through local chieftains; these chieftains were in great measure autonomous and were the effective local government. On the territorial organisation set up under British rule the local officers, the Deputy Commissioner, Subdivisional Officer, and Township Officer, within their respective charges, were at the same time agents of the central government and instruments of local government. In early days, however, the few officials knew nothing of the country, the people or the language, and of necessity they followed the Burmese plan of indirect rule through local chieftains. The British Government confirmed in their charges those local chieftains who would recognise the new government and replaced those who were recalcitrant by more complaisant rivals. The former local jurisdictions came to be known as Circles and the local chieftains as Circle Headmen. There were usually three or four circles in a Township. The circle headman continued to rule his charge on much the same lines as before, dispensing justice as he had always done in accordance with local custom, and with little change in other matters except that now he collected revenue for the British government instead of for the Burmese government. Within the circle there were numerous settlements; sometimes these were large enough to be called a village and sometimes merely clusters of two or three households, but,

large or small, they were social units and not administrative units. As under Burmese rule, the circle headman enjoyed a large measure of autonomy, and the unit of effective local government was not the township but the circle.

After the opening of the Suez Canal, cultivation expanded more rapidly than the circle headman could assess it, and the cultivators borrowed money from Indian money-lenders who enforced payment of their dues through the township court instead of through the headman. The former system was out of date. Also, during the rebellion in Lower Burma consequent on the British invasion of Upper Burma, some of the circle headmen showed little enthusiasm for the British cause. A new Chief Commissioner from India decided to introduce a system of direct rule (on Indian lines) through village headmen appointed by the Deputy Commissioner. This forged a single chain of authority from the Chief Commissioner down to the village headman and put an end to local autonomy. Local government was merely an extension of the central government. Subsequently, from 1924 onwards, with the introduction of constitutional reforms, the villages were given a voice in the appointment of the village headman and a small committee of elders was created to assist him in the trial of petty cases which formerly he had disposed of by himself. But it was expressly laid down that this was not intended to impair his authority as an executive officer of the government. In towns there were ward headmen corresponding to the village headman.

Local Self-government. The conditions of urban life, however, in regard to sanitation and other matters, necessitated special arrangements for the towns. In 1874 a few towns were legally constituted municipalities and from 1883-84 the residents were allowed to elect some of the members; in the smaller towns Town Fund Committees were constituted on similar lines but with nominated members. In these various committees the chief local official, the Deputy Commissioner, Subdivisional or Township Officer, was the President and the local officials of various departments were ex officio members. Most of the non-official members had little interest in the functions that the committees were expected to perform, but they had a lively interest in jobs, contracts and appointments, or they merely wanted to stand well with Government. By this means, however, the Government managed to raise local funds for such amenities as it thought desirable in the interest of uplift. But the people tended to regard the amenities as burdens and did not want to be lifted up in that way. To the superficial observer it might seem that the former local autonomy on Burmese lines had been replaced, at least in the towns, by local self-government on democratic western lines. In fact however there were the forms but not the substance of democracy. In 1915 there were 46 municipalities but, for lack of candidate, only 13 included any elected members.

With the introduction of constitutional reforms, the Government decided to strengthen the semblance of democracy by withdrawing the official members. This measure implied that the committees of their own accord would do and pay for things that the members and the people did not want. In practice, however, the Commissioner and Deputy Commissioner were charged with supervision over the activities of the committees, and various other devices were adopted to ensure that they did not entirely disregard their responsibilities. The precautions were not very successful and, in the official Burma Handbook published by the refugee Government of Burma in Simla in 1943, the municipal committees were condemned as insufficient and corrupt.

Outside the towns certain local funds were raised and administered by the Deputy Commissioner, but there was no attempt to introduce any form of local self government on western lines until 1921. Elective District Councils were then created to perform much the same functions as the municipal committees. They suffered from the same defects and in the Simla Handbook of 1943 came under the same condemnation.

(d) The Hill Tribes. Up to 1885 the only indigenous minorities of any numerical importance were the Mons and the Karens. The Mons were fast losing their sense of racial difference from the Burmese and many, perhaps half, of those who called themselves Burmese, were partly of Mon descent. In the plains, the Karens also were coming closer to the Burmese; they had adopted a Burmese way of life and most of them were Buddhists, though a considerable minority accepted Christianity. The Government approved the trend towards greater unity and deprecated the tendency of Christian missionaries to discourage it. But the annexation of Upper Burma in 1886 was the occasion for a Burmese rebellion in Lower Burma, and the Government, not without some reluctance, adopted the suggestion of the missionaries that Karens should be recruited to suppress it. The conquest of Upper Burma extended British rule over a vast area of tribal hills, and the Government decided to govern the hill peoples through their own chieftains. This effectively cut them off from the Burmese and from one another.

The constitutional reforms introduced in 1923 drew a new line of division between the Burmese and the hill tribes. The new form of government was known as dyarchy because it comprised two distinct systems of rule. Certain subjects were reserved for the Governor-in-Council, i.e., the Governor acting with the two nominated members of his Executive Council; in other subjects he acted on the advice of two Members responsible to a partially elective legislature. The hill regions were declared to be "backward tracts" and were excluded from the sphere of the legislature in respect of legislation, the voting of expenditure and (except with the sanction of the Governor) interpellation and discussion. The Governor-in-Council ruled the backward tracts, except the Shan States where the Governor was the sole authority. The Governor also exercised political control over the three States of Karen which were in subordinate alliance with the British Government. A special personnel for the administration of the "backward tracts" was provided by the Burma Frontier Service which was mostly recruited from the Superior (or European) Civil Service of Burma proper. The Government of Burma Act of 1935 listed these backward areas in a Schedule which made a further distinction between Part I areas and Part II areas. Part I contained the less politically advanced areas; these were still left for administration by the Governor in his discretion. The administration of the Part II areas, politically more advanced, was within the sphere of Ministers responsible to the Legislature, though they could be over-ruled by the Governor. The Part II areas were further subdivided into Constituency and Non-constituency areas; the former returned members to the Legislature and the latter did not. The Karen States were omitted from the Schedule as being technically outside Burma.

The Shan States vary greatly in size from 24 square miles to about 12,000. From Burmese times the chieftains have always been graded. The most important had the title of Sawbwa (in Shan, Saohpa); chieftains of the second grade had the title of myo-sa and those of the third grade the title of ngwegun-hwu (literally "revenue official"). Under the Burma Laws Act of

1898 the civil, criminal and revenue administration of every State was vested in the Chief of the State, subject to any restrictions imposed in his order of appointment. Almost all the States were grouped under two Superintendents, for the northern and southern States respectively, with such Assistant Superintendents as were required. The succession was hereditary but required confirmation in a formal order of appointment. Tenure of the Chieftainship was conditional on good behaviour. The powers of the Governor extended to the appointment of officers to take part in the administration of any state, to the regulation of their powers and procedure, to the modification of customary law, and to the regulation of the assessment and collection of revenue. Criminal jurisdiction was reserved to the Superintendent or Assistant Superintendent unless both complainant and accused were Shans, and in all matters the Superintendent had wide powers of revision. Enactments in force in Upper Burma could be extended to the Shan States, and this was a common practice. Thus the administrative procedure tended to be assimilated to that of Burma. In 1922 the main block of the Shan States was formed into a Federation with an Advisory Council of Chiefs, and in 1925 the whole area was placed under a Commissioner of the Federated Shan States, as Agent to the Governor. Outlying Shan States were supervised by the Deputy Commissioner of the district to which they were attached.

At the time of the Japanese invasion, the Northern Shan State comprised 11 sawbwas, 11 myo-sas, and 4 ngwegun-hwus; in the Southern Shan States there were 6 sawbwas. East of the Shan States are the wild Was, some of the most primitive people in Burma. Up to 1935 there had been no attempt to administer the Wa country, but, after the award of a Boundary Commission in that year delimiting the common boundary with China, the Was on the Burma side of the border were formed into a new group of Eastern Shan States and placed under the supervision of the Superintendent of the Northern Shan States.

The Kachins in the extreme north of Burma in the hills of Myitkyina, Bhamo and Katha Districts strenuously resisted British rule until 1895, when British authority was effectively imposed under the Kachin Hills Regulation of that year. The numerous clans are scattered throughout the hills. Five clans stand out more prominently than the others, and the head of each of these clans bears the title of Duwa. The chieftainship is hereditary, passing to the youngest surviving son. The Kachin tracts in each District were administered by the Deputy Commissioner concerned, who was the Sessions Judge, with the Divisional Commissioner as the High Court, but the administration, apart from the trial of serious offences, was left to the Duwa to conduct in accordance with tribal custom. Alongside the Duwa and his tribal subordinates, however, officials known as taung-oks were appointed by Government to supervise the collection of revenue, and to assist the Duwas in the trial of cases and in the performance of their other duties. The taung-ok was the counterpart of the myo-ok in the rest of Burma, and was subordinate to the Deputy Commissioner or to an Assistant Resident.

The social organisation of the Chins, like that of the Kachins, was tribal rather than territorial, but the situation with regard to the Chins had certain distinctive features. One difference from the Kachins was that the clans and sub-clans of the Chins fell into groups with fairly well defined limits so that each group could be treated as a territorial unit.

More important was the fact that many of the Chins had been within the political boundaries of British rule since the occupation of Arakan in 1826. In general, the administrative arrangements were the same as for the Kachins, with local chieftains governing their people under the superivsion of Superintendents or Assistant Superintendents. In the Arakan Hill Tracts, formerly known as the Hill District of Arakan, there was an Assistant Superintendent with the powers of a Superintendent, and the civil powers of a High Court were exercised by the Commissioner of Arakan; criminal jurisdiction had always been subject to the highest judicial authority in Burma. Elsewhere, the local Deputy Commissioner exercised the powers of a Superintendent, and the Commissioner of Magwe had the powers of a High Court in both civil and criminal cases. The law in force in matters between Chins was that laid down in the Chin Hills Rebulation of 1896, but for persons other than Chins the law of Upper Burma was applied.

The position with regard to the Karen Hills was complicated by the fact that the great majority of the Karens, and almost all those who were politically advanced, had come down into the plains where they lived alongside the Burmese. Under British rule the Karens were admitted to the army and the military police, but those who had learned only Karen in the missionary schools were cut off from other departments of government service where a knowledge of Burmese was necessary. Most of the hill Karens lived in the Southern Shan States and were governed by their own tribal chieftains. The Karens in the plains were granted communal representation under the Constitution of 1923 and again under that of 1937.

As mentioned above Kayah with three States, Kentarawadi constituting Eastern Kareni, and Kye-bo-gyi and Baw-la-ke constituting Western Kareni, were treated as outside Burma but were under the political control of the Governor.

(e) The Judiciary. For many years the administration of civil and criminal justice was regarded as one of the miscellaneous functions of the officials of the executive Civil Service. Towards the end of the 19th century a Judicial Commissioner was appointed to relieve the Chief Commissioner of judicial work in British Burma and another Judicial Commissioner was subsequently appointed for Upper Burma; meanwhile barristers had been appointed as Recorders for the seaports. In 1900 a Chief Court was constituted for Lower Burma and in 1922 the Chief Court of Lower Burma and Judicial Commissioner of Upper Burma were replaced by a High Court consisting of a Chief Justice and ten puisne judges, of whom at least one-third had to be barristers and at least one-third members of the Civil Service. It had jurisdiction as the highest court of civil appeal, criminal appeal and revision over the whole of Burma except the Shan States and other frontier areas, and even in these it had jurisdiction over European British subject; in the Arakan Hill Tracts, however, it had criminal but not civil jurisdiction. It was also the Court of Session and the principal civil court of original jurisdiction for the City of Rangoon.

In 1905 a separate Judicial Service was constituted. The Deputy Commissioner and his subordinate in their magisterial capacity continued to try most of the criminal cases, but some of these were taken over by the judicial officer, whose special function, however, was the administration of civil justice. Under the Burma Courts Act of 1922 the Judicial Service

was reorganized. This did not affect the powers and functions of the magistracy; the Deputy Commissioner was still the District Magistrate, the Subdivisional Officer was the Subdivisional Magistrate and the Township Officer the Township Magistrate. But it created a parallel district judiciary consisting of the District and Sessions Judge with Assistant Judges and Subordinate Judges. The District Judge in his capacity of Sessions Judge tried all the cases which under the law had to be committed for trial; in some cases one District Judge had jurisdiction over two, or even three, districts. The District Judge also had magisterial powers and so had his subordinates and, although they were mainly concerned with civil judicial work, they also helped in the disposal of criminal work. Most officials in the Superior Judicial Service were members of the administrative Civil Service who had preferred to specialize in judicial work, but others had been legal practitioners and usually were barristers. The Assistant and Subordinate Judges were mostly recruited by open competition, but candidates usually had a degree in law from Rangoon University; some Judges, however, were recruited from the legal profession. The magistrates, as officials of the Civil Service, were under the executive government but, in the exercise of their magisterial functions, they were responsible to the High Court; the members of the Judicial Service were purely judicial officials and were directly subordinate to the High Court.

Criminal law and procedure were based on English practice, except that trial by jury was confined to original cases before the High Court; in such cases the jury had nine members and a majority verdict was decisive. Apart from the partial recognition of customary law in frontier areas, the same criminal law and procedure applied to all persons, regardless of race or creed, with the one exception that European British subjects could in certain circumstances claim to be tried before a jury of their own kind. The whole of the substantive criminal law was embodied in the Indian Penal Code of 1860 (originally drafted by Macaulay), and the rules of procedure were codified in the Criminal Procedure Code of 1898, the law of evidence was formulated in the Indian Evidence Act of 1872. A schedule attached to the Procedure Code showed for each offence the court competent to try it. In the most serious cases a magistrate held a preliminary enquiry and, if the evidence was sufficient, committed the accused for trial by the sessions court; the sessions judge tried the case with the assistance of two assessors, whose opinion he could disregard, and he could pass any sentence permitted by the appropriate law, though a sentence of death required confirmation by the High Court. For offences triable by a magistrate there were two alternative methods of procedure. In minor affairs the accused was brought before the court by a summons; the alleged offence was explained to him and on his admission he could be forthwith convicted and sentenced, but, if necessary, evidence was taken and recorded and the accused was acquitted or convicted. In more serious matters the accused was brought before the court by a warrant, though not necessarily under arrest. Evidence for the prosecution was taken and the accused examined: he could then be discharged, but this did not prevent the re-opening of the enquiry subsequently. If a prima facie case were established, he was then formerly charged and called on to plead. After recording the plea of "guilty" or "not guilty", the magistrate then heard and recorded the evidence for the prosecution and defence, and passed an order of acquittal or conviction. Experienced magistrates could be empowered to try such "warrant" cases by a more summary procedure.

There were three classes of magistrates. Those of the 3rd class could impose a sentence up to one month and a fine of 50 rupees; 2nd class magistrates had powers up to six months and Rs. 200, and 1st class magistrates up to two years and Rs. 1,000. In most municipal towns there were benches of Honorary Magistrates; a bench had the magisterial powers of the senior magistrate sitting on it. District Magistrates and other senior magistrates were given special powers to try any case not punishable with death; a magistrate with such powers could impose a sentence of imprisonment up to seven years.

One feature of criminal justice in Burma was the attempt to reduce the abnormal volume of crime by the vigorous employment of "preventive" regulations for binding persons of ill repute to furnish security for good behaviour; in default of furnishing security they could be imprisoned for a period not exceeding two years without conviction of any specific offence. In addition to provisions of this kind in the Procedure Code, the Habitual Offenders Restriction Act and Criminal Tribes Act were freely used for the same purpose.

In civil litigation western law was applied except in matters relating to marriage and inheritance. The procedure was codified in the Civil Procedure Code of 1882, subsequently replaced by the Code of 1908. The principles of contract were mainly governed by the Indian Contract Act, 1872; the Specific Relief Act, 1877; the Indian Limitation Act, 1877, and the Transfer of Property Act, 1882. These, and many other Acts of less general application, were based on principles wholly foreign to Burmese ideas of justice, which favoured compromise rather than the letter of the law. When domestic affairs were in dispute between Burmans the courts usually looked for guidance to certain treatises assumed to represent Burmese Buddhist law; but these treatises, interpreted by western or westernized lawyers and applied in accordance with western legal procedure, gave a very distorted picture of Burmese custom.

(f) The Secretariat. One of the most imposing edifices in Rangoon is the Secretariat, a lofty building around three sides of a large court, silently proclaiming and aptly symbolizing the importance of the Secretaries in the administrative system. Yet the growth of the secretarial establishment in numbers and powers is a comparatively recent development. Until shortly before the annexation of Upper Burma the Chief Commissioner was the effective ruler and required the assistance of only one Secretary. A separate Secretary was appointed to deal with matters relating to land records and agriculture in 1881, and by 1900 the secretarial staff consisted of a Chief Secretary, and two Secretaries with their Under-Secretaries. These were housed, together with other high officials, in the then newly built Secretariat. The head of the province had his own secretary in Government House, also newly built. Despite the multiplication of special departments and services during the early years of the present century, the same staff sufficed up to the introduction of constitutional reforms in 1923.

The new reforms, however, led to a great increase in the number of secretaries, to a new conception of secretarial functions and to a further complexity in secretariat procedure. By 1930, in addition to the Chief Secretary, there were 7 Secretaries, 7 Under-Secretaries, 2 Assistant Secretaries and 4 Registrars. By 1940, after the separation of Burma from India, there were 10 Secretaries, 3 Joint Secretaries, 5 Deputy

Secretaries, 9 Under-Secretaries, 5 Assistant Secretaries and 7 Registrars. There had also been a proportionate, or more than proportionate, increase in the number of Superintendents, Branch Superintendents, clerks, stenographers, typists and menials. Formerly the secretaries had taken the orders of the head of the government, who was himself a professional administrator and knew what could and could not be done. Under the reforms the secretary was adviser to a Minister, who might have ideas as to what was desirable but, for lack of administrative experience, could not know what was feasible or how things should be done. This gave his secretary much greater power. But, through the multiplication of departments and officials it was much more difficult, even for the secretary, to get anything done. The procedure was governed by the Secretariat Code; it was "a bulky volume, formidable in itself and made more formidable by a host of correction slips" in the words of the Fiscal Committee in 1938.

The secretaries were recruited from the administrative civil service and it was a tradition, though not very strictly observed, that no one should spend more than three years at a time in the secretariat; after that he reverted to district work. Each secretary was in charge of perhaps two or three specialist departments, these being headed by specialists who had spent their life dealing with their subject. But they could not get anything done except through the secretary in charge of the department, who had no special knowledge of the matter. This defect was aggravated by the frequent transfer of a secretary from one ministry to another within the secretariat. And the voluminous files usually contained material for objecting to any proposed innovation as impracticable, either because it contravened some precedent or because it was unprecedented. The system was frequently criticised as unduly cumbrous and obstructive and, since the attainment of independence, it has been a serious obstacle to the introduction of reforms.

(g) The Legislature. It was not until 1917, during the first world war, that the British Parliament definitely approved the policy of equipping India with the forms of self-government, "the gradual development of self-governing institutions with a view to the progressive realization of responsible government in India as an integral part of the British Empire." In Burma this took effect in the constitution of 1923. Burma still remained a part of India, and supreme authority was vested in the central Government of India which retained control over certain subjects classed as "central subjects." In the Indian Legislature with 145 members, Burma was represented by 5 members, but these could have little influence on the conduct of affairs. Other functions, termed "provincial subjects" were delegated to the Government of Burma. As already mentioned, this was constituted on the principle of dyarchy. The executive authority in respect of certain reserved subjects was vested in the Governor-in-Council, consisting of the Governor and two Members appointed by the Crown. In other subjects executive authority was vested in the Governor and two Ministers nominated by the Governor from among the elected members of a partially elective Legislature. The subjects which were thus transferred in some measure to popular control were mainly those concerned with the promotion of welfare, such as education and public health. The reserved subjects were those of vital importance to the security of the government, such as Police, General and Judicial administration, Finance and Revenue together with all provincial subjects that were not specifically transferred. The Legislature consisted of one chamber with 103 members, of whom 80 were elected and the

rest nominated by the Governor. The electorate was divided on the communal principle, with eight Indian constituencies, five Karen and two European and Anglo-Indian, and there were also seven special constituencies for the various Chambers of Commerce and the University. There was a very wide franchise linked up with the payment of taxes and with no distinction of sex, but as boys, though not girls, became liable to a small poll tax, and thereby entitled to vote, at the age of 18, the electorate was predominantly male, including 2 million men and 125,000 women. The annual estimates of revenue and expenditure were laid before the Council, but it had no powers in respect of the reserved subjects. The building erected for the Legislative Council was a modest structure of one storey, unpretentious but not unpleasing, set in the inner court yard of the flamboyant Secretariat by which it was dwarfed and overshadowed, the contrast between the two buildings suggesting their relative importance in contemporary politics.

The Constitution, despite its limitations, taught Burmans something about the forms of democratic institutions and the manner of their working. Their experience was enlarged in 1937 when the Government of Burma Act of 1935 came into force. Burma then ceased to be a province of India and became a separate territory under the Crown, represented in the Government of the United Kingdom by a Secretary of State for Burma (though this made little change except in the style of the Secretary of State for India who now became the Secretary of State for India and Burma). The Legislature became bicameral with a House of Representatives and a Senate. The House of Representatives consisted of 132 members elected for a period of five years on a franchise which gave the vote to women at the age of 21 if able to pass an easy literacy test, thereby raising the female electorate to about 750,000. The principle of communal electorates was retained; 25 seats were reserved for minority peoples and 16 were allotted to special constituencies, industry, commerce, labour and the university. The senate consisted of 36 members, half elected by the House of Representatives and half nominated by the Governor. The Government consisted of a Council of not more than ten Ministers selected from among the members by the Prime Minister, who depended for his position on a majority in the House of Representatives. Certain subjects, such as defence, monetary policy and foreign affairs were reserved to the Governor. Other matters were made over to the Ministers and the Governor was normally bound to act on their advice, though in exceptional circumstances the Constitution entitled him to disregard it.

Superficially regarded, the Constitution seemed very democratic, but the device of communal elections prevented common action and fostered intrigue, corruption and racial discord. What happened in practice was that the balance of power rested with the foreign commercial interests, who supported the extreme anti-British faction against the more numerous and more moderate nationalists. Burmans learned not only how the forms of democratic government could be used but also how they could be misused. By the time that the Constitution was swept away by the Japanese invasion, many Burmans had lost their belief in parliamentary institutions and many Europeans were doubtful of the ability of Burmans to work them.

##### 5. The Japanese Interregnum.

During the initial confusion incidental to the Japanese occupation in the early months of 1942, the Burmese soldiery drove out the officials of the territorial civil service and took over charge of local administration,

so that the administrative machinery built up under British rule seemed to have collapsed. But the consequent disorder was intolerable, both to Burmans and to the Japanese military authorities, and the latter, after due screening, reinstated the former civil officials. On 1 August, 1942, they appointed a Burmese Executive Government with Dr. Ba Maw as First Minister and on August 1, 1943, Burma was formally declared an independent State. At that time the Shan, Karen and Wa States were still under the Japanese Military Administration, but on December 24 they were handed over to Burma and were administered as the Kambawza State by the Home Minister as High Commissioner with a local Assistant High Commissioner and a subordinate and departmental establishment.

In the new Government of independent Burma there were again ten Ministers, and Dr. Ba Maw, as Prime Minister, assumed the title of Adipati (Director or Leader); there was also a small advisory Privy Council with power to discuss the annual budget and to enact legislation in other matters. The Japanese exercised ultimate control over the new government but did not intervene in the administration further than Japanese interests required. Dr. Ba Maw nominated the Ministers and Privy Councillors and they were all solely responsible to him. He repudiated the "old democratic plan, based upon vote-value"; when things were settled, "people might go back to their political play-acting if they should still want to be amused in that way." 4/

But the ten Ministers corresponded in general to the ten Ministries of the previous government, and the procedure of the Privy Council in enacting legislation and in framing resolutions for consideration by the various Ministries was modelled on that of the former legislature. The territorial civil service was distributed over the country in the same manner as before, and the previous departmental services carried on as best they could with a depleted staff. Except that the new government did not recognize the validity of democratic principles and was avowedly authoritarian, the administrative machinery remained very much the same as before.

Yet in the working of the machinery there were significant innovations, destined to bear fruit later. The fact that Burma was at least nominally independent gave Burmans a new insight into the conduct of international relations, and in other matters also it imbued them with a new, if sometimes uneasy, confidence in their ability to manage their own affairs. This confidence was strengthened by the fact that the new administration from top to bottom was Burman. Senior Burman officials now occupied houses formerly reserved for senior Europeans (so far as these were not requisitioned by the Japanese); they sat in the seats formerly held by Europeans, and they were in a position to give orders instead of merely complying with the orders of European superiors. The officials of the administrative Civil Service were, in theory, relieved of their magisterial functions which were made over to the Judicial Service; but they were given wider administrative powers and the exigencies of the war called on them for greater personal initiative and allowed less reliance on routine. The departmental services, although depleted by the loss of European and Indian officials by whom some of them had been so largely manned, may have been less efficient, but they were now wholly Burman; here, as in other matters, Burmans gained new experience. At the same time the range of departmental administration was greatly extended by

4/ See "Burma's New Order Plan," by Dr. Ba Maw (Burma, Sept. 1944, Vol. I, No. 1, p. 105).

the multiplicity of new functions imposed on Government by the political situation, and this intensified the urgency of more effective co-ordination between departmental activities. For this purpose Dr. Ba Maw decided to group Ministers into Boards for dealing with matters concerning two or more Ministries; thus, an Economic Board, comprising the Ministers for Commerce, Forests, Agriculture, Communications and Public Works, was constituted to deal with questions of production and transport. The dilution of the administrative establishment with a large number of subordinates little, if at all, conversant with English may have been one factor in the decision to substitute Burmese for English so far as possible in administrative business.

These various innovations, however, were little more than patchwork on the former administrative system to adopt it to the new situation, and they were mostly the natural and almost inevitable consequence of the departure of the former European and Indian officials. Yet they served as precedents when Burma once again achieved independence after the restoration of British rule. The Ba Maw Government also invented new machinery intended to function alongside and supplement the former administrative system. This too furnished useful precedents. In the New Order Plan, published in October, 1943, Dr. Ba Maw envisaged the creation of a group of national organisations for consolidating the social and administrative structure. Among these the National Political Organisation was of outstanding importance. The Japanese, while allowing great freedom of action to the Burma Government, maintained a close supervision over the administration by a network of political officers. The National Political Organisation was intended to perform the same function on behalf of the Burma Government. From 1942 Dr. Ba Maw had insisted on the need for national unity if Burmans were to hold their own against the Japanese and, with this aim, he had brought together the various political factions into one political unit, the Dobama-Sinyetha Association. One object of the National Political Organization was to complete the elimination of all party labels and distinctions and achieve real and effective unity, and one of its main tasks was to promote co-operation between district officials and the local public. Another similar body was the National Military or quasi-Military Organisation intended to function as a national militia or Reserve Force. Another was the Youths' Organisation designed to stimulate patriotic activities among boys and girls.

These organizations, or their successors, played an important part in the resistance movements, first against the Japanese and then against the British, and they have continued active in independent Burma. In order to conciliate the minority peoples in the cause of national unity, Dr. Ba Maw created the Central Karen Board and similar Boards for the Shans, Karenns and Kachins. A further precedent for the subsequent Government of independent Burma was the creation of a Sanghas' Organisation, a kind of State Church, which he hoped to use as an instrument of propaganda linked up to Government through a Minister of Religious Affairs, National Welfare and Propaganda. With a view to stimulating Burmese enterprise in transport and commerce he encouraged ship-building and opened a State Bank. In the field of cultural activities he inaugurated a Strength and Sports Movement, appointed a Literature and Translation Committee for the production of a national dictionary and national encyclopaedia, and drew up plans for a national museum. For the successful operation of these various schemes he made arrangements for the appointment of a Central Planning Board. Many of the projects never got beyond a blue print, and others did not survive the

collapse of the Ba Maw Government with the defeat of the Japanese, but some were resurrected after Burma had regained its independence, and even some ideas that never got beyond paper under Dr. Ba Maw took root and came to fruition subsequently.

Far more important, however, than the changes in the form and machinery of government were the changes in the environment by which it was conditioned. The Europeans and Indians had gone away and such Chinese as remained were lying low; this created a vacuum in the sphere of industry and commerce, and it was filled even if tenuously, by Burmans. For the first time Burmans found openings in industry and commerce, and among them were officials who had formerly looked down on business but preferred it to serving a Government under Japanese control. Also for the first time Burmans had an army which they could use against foreign rulers. The environment endowed them with the rudiments of economic and military power without which votes have no value and talk of self-government is a mockery.

## 6. The British Restoration.

Although many Burmans welcomed the Japanese as liberators, some of the stoutest opponents of British rule were even more strongly opposed to the Japanese and from their first arrival set about organising resistance. Aung San, who had led a small Burman detachment with the invaders and was given command of the Burman forces, soon lost his illusions and made contact with the resistance movement. The National Political Organisation, the Karen Central Board and other like organisations facilitated common action, and in August, 1944, Aung San convened a secret meeting of nationalist leaders with a view to co-ordinating underground activities. From 1943 he had been trying vainly to get into touch with the British military authorities, but towards the end of 1944 he succeeded in obtaining their support. In the early months of 1945 the British troops fought their way back into Burma, and on March 16 Aung San astounded the Japanese by successfully transferring all his forces to the British side. This was a feat of generalship that earned him the well-deserved respect of the British military authorities. In May, when the army occupied Rangoon and made it the headquarters of the military administration, Aung San called the underground resistance movement into the open as the Anti-Fascist People's Freedom League (APPFL). He also had behind him the Burmese army and the reserve force that had been created as part of the National Military Organisation. With this strength to back him, he hoped to induce Britain to confirm the independence that had been granted to Burma by Japan. This was the situation in Burma in October 1945 when the former Governor, who had taken refuge in Simla (India) during the war, came back to reintroduce civil administration.

Plans for the administrative and economic rehabilitation of Burma had already been drawn up under the auspices of the exile Government in Simla and the Secretary of State for Burma in London. The policy of the British Government was set forth in a White Paper in May, 1945. British officials were no better pleased than Burman nationalists with the working of the Constitution in the Government of Burma Act of 1935. The Act contained, however, a safeguard against failure in section 139, which enabled the Governor in an emergency to assure full executive and legislative powers. A proclamation to this effect, issued in 1942, was due to expire, but Parliament sanctioned the extension of this system for another period of three years. One of the first orders of the Governor on his return was to

suspend the representative bodies which had been charged with the administration of local affairs in urban and rural areas, and to transfer their functions to the local officials of the territorial administrative civil service. Thus, after two years of at least nominal independence, Burmans were deprived of any active part in the administration on both the national and local levels. Apart from the abolition of representative institutions, the Government aimed at reconstructing the administrative system as nearly as possible along pre-war lines.

The suspension of the legislature was defended on the ground that, in view of the grave damage, material, economic and social, sustained by Burma during the war, political development must be deferred pending "the re-establishment of stable conditions, the restoration of buildings, communications and public utilities, and the rehabilitation of agriculture and other essential industries." These tasks demanded a much more active intervention of the Government in economic life than before the war. Various projects for economic rehabilitation had been drawn up by the officials in Simla in consultation with the leading representatives in London of the commercial interests concerned. On the military occupation of Burma, employees of the chief European firms in Burma were recruited or drafted into the Civil Affairs Service, Burma -- the (CAS(B)) -- and charged with the initiation of the project, and, when Civil administration was reintroduced in October, 1945, Project Boards were constituted to carry on the work. The most important of these was the Agricultural Project Board. It undertook the whole of the rice business; the granting of advances to the cultivator, the purchase of the crop and also milling and exporting. It was a vast State enterprise. The original intention was that the Board, which included the former European leaders of the industry, should reconstruct it along pre-war lines with a view to handing it over to the former firms as soon as they felt able to conduct it profitably. Similar Boards were formed to reconstruct the timber business, the inland water transport and other economic activities.

Aung San had offered to co-operate with the Government with a view to rehabilitation of Burma as an independent country, but when the Government rejected his offer and set about reconstructing pre-war Burma, he rallied his forces to oppose it and soon proved that a Government which would not accept his help could not govern effectively without it. His most able lieutenant was a communist, Than Tun. Before the war economic life in Burma had been dominated by foreign capitalists. Burmans had learned to identify foreign rule with capitalism and they were opposed to both. Some nationalist leaders had sided with Japan as a means of obtaining independence, but out of sympathy with Russia the Communists had declared for the Allies and formed the spearhead of resistance against the Japanese. Aung San was the leader of the nationalists, but Than Tun was the most prominent leader of the communists. For some time after the war they joined in the common cause of resistance to the British. Than Tun demonstrated the effectiveness of the communist weapon of direct action by organizing a general strike which, in effect, brought about the collapse of British rule. In October, 1946, a new Governor invited Aung San and his colleagues to join the Executive Council. From that point the paths of Aung San and Than Tun diverged. Aung San believed that it would be possible to obtain the independence of Burma by peaceful negotiation. Than Tun still believed in the method of direct action prescribed by orthodox communist doctrine. The real point at issue however was whether the lead

should rest with Aung San or Than Tun. Than Tun had only a few followers but tried to secure control over AFPFL by getting his own men into key positions. Aung San defeated this attempt, whereupon Than Tun, with his small group of communist followers, broke off from the main body of nationalist leader. Formerly the AFPFL had served to rally all sections brought together by their common desire for independence. But when Than Tun tried to capture the party and the whole revolutionary movement for communism, other prominent leaders began to call themselves socialists and formed a socialist group or party within AFPFL.

Aung San, having got rid of Than Tun, continued his negotiations and in January 1947 arrived at an agreement with Mr. Clement Attlee, then Prime Minister of the Labour Government in Britain. The essence of this agreement was that the people of Burma should be allowed to achieve their independence, either within or without the Commonwealth, as soon as possible. For this purpose the Executive Council of the Governor was to constitute the Interim Government of Burma and to arrange for the election of a Constituent Assembly to decide on the future Constitution of their country. The elections were held and a draft plan for a Constitution, framed by AFPFL, was laid before the Constituent Assembly at its first meeting in June. In July, Aung San and some of his leading colleagues were assassinated, but Thakin Nu took his place. The Constitution was adopted on September 24th. In a Treaty signed on October 17th between Mr. Attlee and Thakin Nu, the British Government undertook to invite the British Parliament to pass legislation for Burma to become an independent State. This arrangement was approved in the Burma Independence Act, 1947, and on January 4th, 1948, Burma regained its independence.

## 7. Effects of Foreign Rule.

Nature and history impose two main tasks on the rulers of Burma, whether native or foreign: the unification of the component peoples, and the adjustment of Burmans to life in a larger world. The Kings of Burma never finally achieved national unity and, so far as possible, they shut out the world beyond their borders. Foreign rule was the inevitable penalty. One effect of foreign rule was to shatter the customary Burmese social, economic and administrative system. In the period of foreign rule there were three phases: pre-war British rule, Japanese rule and the post-war British restoration. Each left its mark on the country, but certain features characteristic of the Burmese social and political structure were never wholly obliterated and seem now to be re-emerging. Among these are the idea of an organic society based on local autonomy, the idea of co-operation between the State and a largely autonomous religious establishment, and the idea of personal ties between leaders and dependents.

The pre-war period of British rule endowed Burma with the machinery of a modern state and taught Burmans how to work it. It provided Burmans with an example of a civil service, organized on rational utilitarian lines for the purpose of giving effect throughout the country to the policy of the Government. The administrative civil service had three characteristic features: It was closely centralised, with each official deriving his authority from his immediate superior and so on through a chain of officials up to the head of the Government; it was organised territorially with a civil servant as the agent and representative of the central government in each territorial subdivision; and every official was subject to the

ordinary law in all his activities. British rule also introduced Burmans to the idea of law as a general command, to the device of a Legislature as an organ for making laws, and to the conception of a Judiciary, independent of the Executive government, as an instrument for interpreting and administering the law. Before the war also, though more recently, British rule had introduced the forms of representative institutions on the lines of western democracy as understood in England. In these various ways British rule left an imprint on the structure of government in Burma that can never be completely obliterated.

But British rule did nothing to foster national unity. On the contrary, both directly and indirectly, it stimulated sectional particularism. It separated Burma proper from the frontier peoples by practising direct rule in the former and indirect rule in the latter; and it divided the frontier peoples from one another by leaving them under their own local chieftains. Also, by opening the armed forces to the minor peoples and barring them to the Burmese, it fostered racial antagonism and subverted the internal balance of power, rendering it unstable. Even within Burma proper Arakan was more sharply cut off from the rest of Burma than before and local particularism was intensified because intercourse by sea with Chittagong and Rangoon replaced the former traffic by road across the hills. National unity was never the goal of British policy. The object of British policy was to develop the material resources of Burma by throwing it open for free enterprise to all the world on equal terms. This multiplied sectional diversity by attracting a host of inassimilable alien elements. As a result of free enterprise, industry and commerce and the scientific professions passed into the hands of foreigners, who also came to own much of the richest rice land. Instead of building up a national society the effect of British rule was to call into existence a plural society comprising numerous groups living side by side, but separately and meeting only in the market place. Each racial group and sub-group depended on the others for the performance of its own special economic functions, but their economic interests were often antagonistic and they had no social life in common. The relations between the groups were governed solely by law, and it was only by law supported by adequate military force that they could be held together. In such a situation of unstable equilibrium, the logical consequence of inability to enforce the law was anarchy.

In this plural society, dominated by economic forces, Burmans had no chance to adapt themselves to life in a larger world. Because industry, commerce and the scientific professions offered no opportunity for Burmans, the doors leading to the modern world were barred against them. Economic forces held sway even in the schools, as students were deterred from taking courses which led nowhere, such as the study of economics and natural science, two main pillars of all that is distinctively modern in the modern world. Thus, although foreign rule brought Burma into economic contact with a larger world, Burmans were halted at the threshold, and they could not learn to live in it. In some directions their horizon was not enlarged but narrowed, for cheap Indian labour and the import of foreign goods restricted the range of their economic activities.

Formerly social custom had restrained but had also protected them in their economic relations. But under foreign rule, western law and western schools were the chief agents of economic forces in breaking down the hedge

of custom. Even within the village the social ties of the community were unable to withstand the strain of competitive individualism. This process of social disintegration was expedited by the extension of central authority through the village system. The instinctive human protest against the domination of social life by economic forces took shape during the present century as nationalism, and nationalists, not unreasonably, tended to identify foreign rule with capitalism. Thus the growth of nationalism in association with antipathy to capitalism may be regarded as an effect of foreign rule, and this combination was certainly a very potent factor in determining the structure of the government on the attainment of independence.

The contributions of the Japanese to political architecture in Burma were largely negative. The relapse of millions of acres of cultivated land into jungle for lack of a market, the conscription of men for the labour corps, and the bombing of towns and villages carried still further the disintegration of ordered society. Yet at the same time common misery gave birth to a new unity, a national unity comprehending all racial and sectional groups. And national unity was no longer compromised by unassimilable foreign groups, as these were largely eliminated. Also, experience under the Japanese confirmed and strengthened the aversion to foreign rule of any kind. It gave Burmans a special aversion to dictatorship and to arbitrary rule. By 1941 most nationalist leaders were no less disgusted than Dr. Ba Maw with the futility and corruption of the quasi-democratic Legislative Council; they differed from him only in preferring "group-dictatorship." <sup>5/</sup> By 1945, however, opposition to dictatorship, "anti-fascism", was a rallying cry for all parties, with democracy as the implied alternative. Also, while Burmans were still mistrustful of legal subtlety, of "the Big Book" (sa-ok-gyi), Japanese rule had taught them to value the protection of the law. On the other hand, the fact that under the Japanese the whole administration from top to bottom had been manned by Burmans gave them a new confidence in their ability to manage their own affairs without foreign officials. And the Japanese device of supervising administrative activities at all levels through a parallel political organisation, which Dr. Ba Maw had copied in his National Political Organisation, showed them how to maintain a hold over officials in the interest of a party if not always in the interest of the people. But it was the building for the first time of a national army, and the entry of Burmans into the sphere of industry and commerce that were the most significant effects of Japanese rule.

With the British restoration Burmans lost the prestige of independence; British officials replaced the Burmans who had been sitting in their seats; and the policy of the Government was to rebuild a pre-war Burma, with foreign domination over economic life, including the return to foreign landlords of lands in which Burman cultivators had resumed possession. The immediate effect was to raise the fever of nationalism to new heights. The intervention of the State in economic development served as an argument for the necessity of socialism, and was an object lesson in the methods by which socialist theories could be applied. And the success of the strikes, in which the reaction against the policy of Government found vent, demonstrated the potency of direct action on Marxian principles.

<sup>5/</sup> See Burma under the Japanese, by Thakin Nu, (Macmillan, New York, 1954) p. 60.

These, in brief, were the most obvious political results of foreign rule, and they foreshadowed the problems for which a new government in independent Burma would have to find solutions. But it had a further consequence, less readily apparent on superficial observation. Burmans, not without reason, attributed their backwardness to British rule but they believed that all their difficulties would disappear when they were rid of it. They failed to realize that independence is a condition of welfare but not a cause or guarantee of welfare, and they looked forward to a shower of gold and silver without realizing the need for organized and individual effort to attain welfare. And the new Government, even if the members had realized the need, was not strong enough to impose the necessary discipline.

#### 8. Problems of Public Administration.

The first problem of the new government was to choose between dictatorship and democracy. The dictatorship of the proletariat was an orthodox Marxian solution, but Japanese rule had given Burmans more than enough of dictators, and the choice of democracy was a foregone conclusion. So also was the choice between presidential and parliamentary democracy, for parliamentary democracy was the only type with which Burmans were acquainted. Another problem calling for immediate decision was the choice between a unitary and a federated State. The slogan of Dr. Ba Maw's New Order had been "One blood, one voice, one leader," and under Dr. Ba Maw the Home Minister had been Chief Commissioner of the Shan States. The unitary State was tainted with memories of "fascism"; and, even if Burmans had preferred it, they could not have obtained the support of the frontier peoples. A federal union in some shape was inevitable; but the difference between Burma proper and the frontier states in numbers, wealth and political experience required that Burma should have a special position in the federation. Burmans had to decide also how far authority should be centralized and how far it could be delegated on the principle of local autonomy. From British rule they inherited a strongly centralized system; this was the type of administration to which they were accustomed and which the officials knew how to work. Even so far as Burmans preferred local autonomy, the immediate situation demanded a strong central authority for the restoration of order. Centralization was necessary also both for the promotion, direction and control of economic progress, and for the enhancement of welfare. The enhancement of welfare, though not the most urgent, was the most difficult and, in the long run, probably the most important problem that the new Government had to solve. In this matter the Burmese Government was faced with the same obstacle as the former British Government. In western lands people want more than they need, but in countries like Burma they need more than they want, especially in respect of public health and the prevention of disease among men, crops and cattle. Without the cooperation of the people little can be accomplished, and they must be induced to cooperate in measures which they do not recognise as necessary and of which they do not appreciate the benefit. The promotion of welfare requires the multiplication of departments; and public apathy necessitates centralisation and the invention of devices to facilitate coordination and prevent departmentalism. For all these various reasons it was essential that, in the structure of the new government, authority should be centralized and the system of administration bureaucratic. This raised the further problem as to how bureaucratic procedure could be disentangled from red tape and brought under popular control.

The choice between bureaucracy and popular control was the dilemma with which Burmans were confronted. Socialism is often deprecated as synonymous with bureaucracy, and Burmans had faith in socialism, but, as one of the leading politicians insisted, they wanted "socialism without bureaucracy" for they associated bureaucracy with British rule. They believed in socialism as opposed to capitalism, but not many Burmans clearly appreciated the implications of these terms under the conditions prevailing in Burma. During Burmese rule all economic relations had been governed by custom. British rule had replaced this customary system by a capitalist system in which economic activities were governed, not by custom, but rationally.

Ordinarily the application of labour and capital to natural resources yields a surplus over the economic energy consumed in production. This surplus may be wasted, as often happened formerly in Burma when the harvest was in excess of domestic requirements and part of the crop was left unreaped. Or the surplus may be sold and stored unproductively as jewellery or in specie, and this is still a common practice among Burmans. But in a capitalist economy most of the surplus wealth resulting from production is utilized as capital for the production of more wealth. It is characteristic of a capitalist economy that production is rationally directed towards obtaining the maximum return to the labour and capital expended. The increase of wealth and its use to the best advantage as capital is no less desirable in a socialist state than in any other form of political organization, for the wealth may be used to the best advantage of the community. Ordinarily, however, in a capitalist economy production is left to private enterprise and economic activities are not directed to the best advantage of the community but are directed, and frequently restricted, with a view to the maximum profit of the private individuals who direct them. Capital, if left unregulated, tends to flow in the direction of the greatest return without any regard for non-economic considerations, and this is often anti-social. Thus a capitalist economy tends to transform the social order within which it operates into a capitalist society, which is in fact not a society but a business concern.

In the western world, even in such countries as England and America which are regarded as typically capitalist, economic enterprise is restricted by the common social sense to a far greater degree than is generally recognised, and this common social sense is continually being reinforced by law when it is in danger of proving insufficient. But in Burma, as in other plural societies under foreign rule, there was no common social sense to restrict the anti-social tendencies of private economic enterprise, while western law favoured such enterprise and, for lack of this common social sense, even laws and regulations intended to keep private economic enterprise within wholesome limits were largely ineffective.

Students of comparative political economy are now coming increasingly to recognise that such "under-developed countries" are far more typical of capitalism than the "capitalist" West. So far as they are permeated by western economic activities they become mere business concerns, and in Burma these activities penetrated more deeply than elsewhere because they extended right down to the peasantry, converting the peasants over the greater part of the rich delta lands into a landless and impoverished proletariat. The reaction to this process was the more acute, and extended over the whole nation, because the economic process was under

foreign direction and there were no Burman capitalists.

Naturally, Burmans on obtaining their independence failed to distinguish between a capitalist economy and a capitalist society. In repudiating the capitalist society into which the social order had been transformed, they were impelled also to repudiate the capitalist economy with which it was associated; they mistrusted not only foreign capital but capital in general, and even the accumulation of wealth that might be used as capital. They had not, it was said, got rid of plutocrats in European trousers or Indian dhotis merely to replace them by plutocrats in a Burman head-dress. They would have no truck with capital and were suspicious even of riches. This attitude may have derived in part from the equalitarian character of the social structure under Burmese rule; all alike were equally subjects of the Crown, or (in the Burmese idiom) royal slaves. With few exceptions; every one, regardless of his birth, could aspire to the highest office under the crown; and the circle headmen, the hereditary squirearchy, had been abolished under British rule through the introduction of the village system.

In the reaction against capitalism, socialism appeared to be the obvious alternative. Socialism was taken to imply State ownership, management or control of economic activities, and there was serious concern and lively discussion as to how far private enterprise, even on the smallest scale, was consistent with socialist principles. But the limits within which private enterprise should be allowed was only a superficial problem. The fundamental problem in the application of socialist principles to Burma attracted little attention. In socialist theory the State is regarded as the agent of society; but it is also the creation of society and grows or is fashioned in response to social needs. The conception of the State as the agent of society rests on the assumption that there is already a social order in being which can be represented by the State. But this was not the case in Burma, and the basic assumption of socialist theory was invalid. Through the impact of economic forces under foreign rule the customary social order had collapsed and been replaced by a business concern with foreigners and Burmans collaborating in an unstable symbiosis, which had been shattered by the war and the Japanese occupation. The foreigners, the major partners in the concern, were no longer available, and the Burmans did not want them to return, and certainly did not want them to return on the same terms as before.

Society was disintegrated and the fulfilment of socialist aspirations required the re-integration of society on a national basis before socialist principles as understood in western lands could be applied. Normally the social order is the parent of the State; in Burma these conditions were reversed, and the administrative apparatus, designed under British rule for a very different purpose, or so much of it as still remained, had to be used as an instrument for creating a new national society which in due course would fashion a new State responsive to its needs. Socialism in Burma implied, not the transformation of the State but the creation of a new society.

The new society which Burmans aspired to build was to be dedicated to promoting the welfare of the common man. In various ways however the zeal for welfare was an element of weakness. Welfare measures are costly, and Burma's productive capacity had been devastated by the war. The desire for greater welfare had to be balanced against the need to increase produc-

tion. Also, welfare measures do not yield speedy returns, and those on whose behalf they are devised must pay the cost before they feel the benefits. A government cannot easily promote welfare without treading on people's toes, and it must be strong enough to rap over the knuckles those who are recalcitrant. The main objectives of welfare policy were to replace by Burmans the foreign elements in industry and commerce; to restore to cultivating peasants the land which they had lost to absentee and other non-cultivating landowners; and to raise the general standard of living by improved education and sanitation.

The expropriation and nationalisation of foreign interests in industry and commerce carried general approval and sympathy among Burmans, who were more likely to criticise such action as too lenient or dilatory than as oppressive, and few of them apprehended any difficulty beyond the possibility of reprisals by foreign powers. Not many appreciated the difference in this matter between Burma and the West. In the West private enterprises are already national in the sense that they are owned and operated by nationals; nationalisation implies merely the transfer of ownership from private enterprise to the State as representing the nation. But in Burma nationalisation implied a double process; it implied not merely the transfer of ownership but the transformation of the enterprise into a national concern through replacing foreigners by Burmans. Burmans, with no previous experience of industry or commerce, tended to underestimate the practical difficulties of taking over foreign enterprises with no Burmans competent by training and experience to manage and conduct them and with an inadequate supply of labour habituated to the discipline of industrial routine.

Agrarian reforms likewise commanded general sympathy and were insistently demanded by the land-hungry peasantry organized in the Peasants Union from which the government derived most of its popular support. Delay in meeting their demands would encourage wholesale defection to the communist opposition. Here again foreigners could expect no help from their own governments and wealthy Burman landowners were too few and too widely scattered to put up effective opposition. But in most towns and in many villages there were Burmans who had bought a few acres of land as provision for illness or old age and these could not be dispossessed without incurring resentment. However carefully land may be distributed there must always be some who are dissatisfied with the holding allotted to them, and in any case there was not enough land to go round among all those who wanted land. Similarly measures for the spread of education for the improvement of public health, even so far as they were applicable to conditions in Burma, could not be enforced without sufficient strength to impose the necessary discipline.

For the attainment of all these objectives a strong government was essential. Still more was strong government needed to restrain the turbulent generation which had grown up during the war years, learning to handle a gun instead of a plough, and finding it easier and more congenial to make a living by plunder rather than by productive industry. Yet in respect of military force no government could well have been weaker. The only men with experience of military discipline were the small contingents recruited from the frontier tribes for the British garrison; these constituted nearly half of the military forces at the disposal of the government and their loyalty to a Burmese government was doubtful. The rest of the force consisted of guerillas, who had fought against the British and the

Japanese but were unpromising material for military service in the routine of civil life. The few battalions at the command of government were insufficient even to allow of strong and effective measures for the maintenance of order. The strength of the government was not military but moral; it was derived from optimism and enthusiasm and rested on the general belief in its good will. But in the prevailing circumstances this general belief was liable to be corroded by frustration and the basic problem was how to survive.

These problems would have been formidable even if the environment had been propitious and the administrative machinery in good running order. But in these respects the situation could hardly have been more depressing. With the attainment of independence the administrative personnel had been depleted. A comparison between the Quarterly Civil Lists of October, 1947, and April, 1948, is illuminating. In the October list there were 99 members of the Superior Civil Service, the mainspring of the administrative machinery; by April, 71 of these had retired or were on leave preparatory to retirement. Out of the top 50 in the list 33, two-thirds, had gone; and of the top 25 only 4 remained. In the Police Service, so essential for the maintenance of order, out of 37 officers with the rank of District Superintendent or higher, 31 had gone. In the October list there were 23 permanent officers with the rank of Executive Engineer and upwards, but in April there remained only five, of whom two were non-Burmans. The situation in the Civil Medical Service was not quite so deplorable; of 36 doctors with the rank of Civil Surgeon upwards 18 still remained, though only 6 of these were Burmans. In the Frontier Service, responsible for administration in the tribal hills, there was almost a clean sweep; out of 62 officials only 9 were left.

Merely to carry on as before, all these posts had to be filled. Promotion from the subordinate services left vacancies to be replaced by raw recruits. And the Government wanted to do, and by reason of the widespread damage and destruction, had to do, so much more than had ever previously been attempted. In addition to the innumerable domestic problems, it had to enter the field of international relations, of which the little that was known had been learned under the Japanese; yet with this scanty equipment, it had to feel its way along the perilous frontier between East and West.

## 9. The Constitution.

The Constitution framed by the Constituent Assembly was intended to meet these problems so far as they were already foreseen. As already mentioned, it was based on a preliminary draft approved by the AFPFL. The General Convention of the AFPFL which adopted the draft also passed a Resolution comprising fourteen points that were regarded as of fundamental importance. These main points may be briefly summarized.

The Independent Sovereign Republic of Burma was to be a Union comprising divers territories which, if they possessed certain specified qualifications, should be guaranteed such a measure of autonomy as might be deemed expedient. Legislative power was to be vested in a President, and a Union Assembly with two Chambers; the Chamber of Nationalities, representing the constituent territories, and the Chamber of Deputies, elected by universal adult suffrage. The highest executive authority, the

Union Government, was to be responsible to the Chamber of Deputies. Justice was to be administered in public courts, established by the Constitution or by law; the Judges were to be independent and subject only to the law and the Constitution. The character of the government then contemplated was indicated by one article of the Resolution which ran as follows: "Justice, social, economic and political; equality of status, of opportunity and before the law; freedom of thought, expression, belief, faith, worship, vocation, association and action, subject to law and public morality, shall be guaranteed and secured to all citizens."

A further resolution asserting the "right to recall any elected representative" is of interest for the light it throws upon the political ideology of those who drafted the Resolution. This document in an abbreviated form comprising seven points, was laid before the Constituent Assembly at its first Session as a directive in accordance with which the Constitution should be framed.

The Constitution, as finally adopted, incorporated the article cited above in a formal Preamble which ran as follows:

"WE THE PEOPLE OF BURMA including the Frontier Areas and the Karen States, Determined to establish in strength and unity a SOVEREIGN INDEPENDENT STATE. To maintain social order on the basis of the eternal principles of JUSTICE social, economic and political; LIBERTY of thought, expression, belief, faith, worship, vocation, association and action; EQUALITY of status, of opportunity and before the law, IN OUR CONSTITUENT ASSEMBLY this Tenth day of Thadingyut waning, 1309 B.E. (Twenty-fourth day of September, 1947 A.D.), DO HEREBY ADOPT, ENACT AND GIVE TO OURSELVES THIS CONSTITUTION."

This declaration, with its emphasis on freedom of every conceivable species, breathes the spirit of western liberalism in its most comprehensive form. Yet it suggests a question as to how far so much individual freedom could be reconciled with "Justice, social, economic and political." For an answer to that question one must study the provisions of the Constitution to which the declaration is a preamble.

The Constitution contains fourteen chapters and four schedules. The first chapter, dealing with the form of the State, defines it as a Republic consisting of a Union comprising specified territories. It lays down that the sovereignty of the Union resides in the people, and it reserves all powers, legislative, executive and judicial, to the organs of the Union except so far as they are specifically delegated to the constituent territorial units. The second chapter defines the nature of citizenship and treats in detail of the various individual rights set forth in the Preamble. Among these rights certain items deserve special notice. It is laid down (section 16) that "no citizen shall be deprived of his personal liberty, nor his dwelling entered, nor his property confiscated, save in accordance with law."

Again, in respect of economic rights, it is provided (Section 23) that "the State guarantees the right of private property and of private initiative in the economic sphere." Protection by the law is further guaranteed in the injunction (Section 24) that "no person shall be convicted of crime except for violation of a law in force at the time of the commission of the

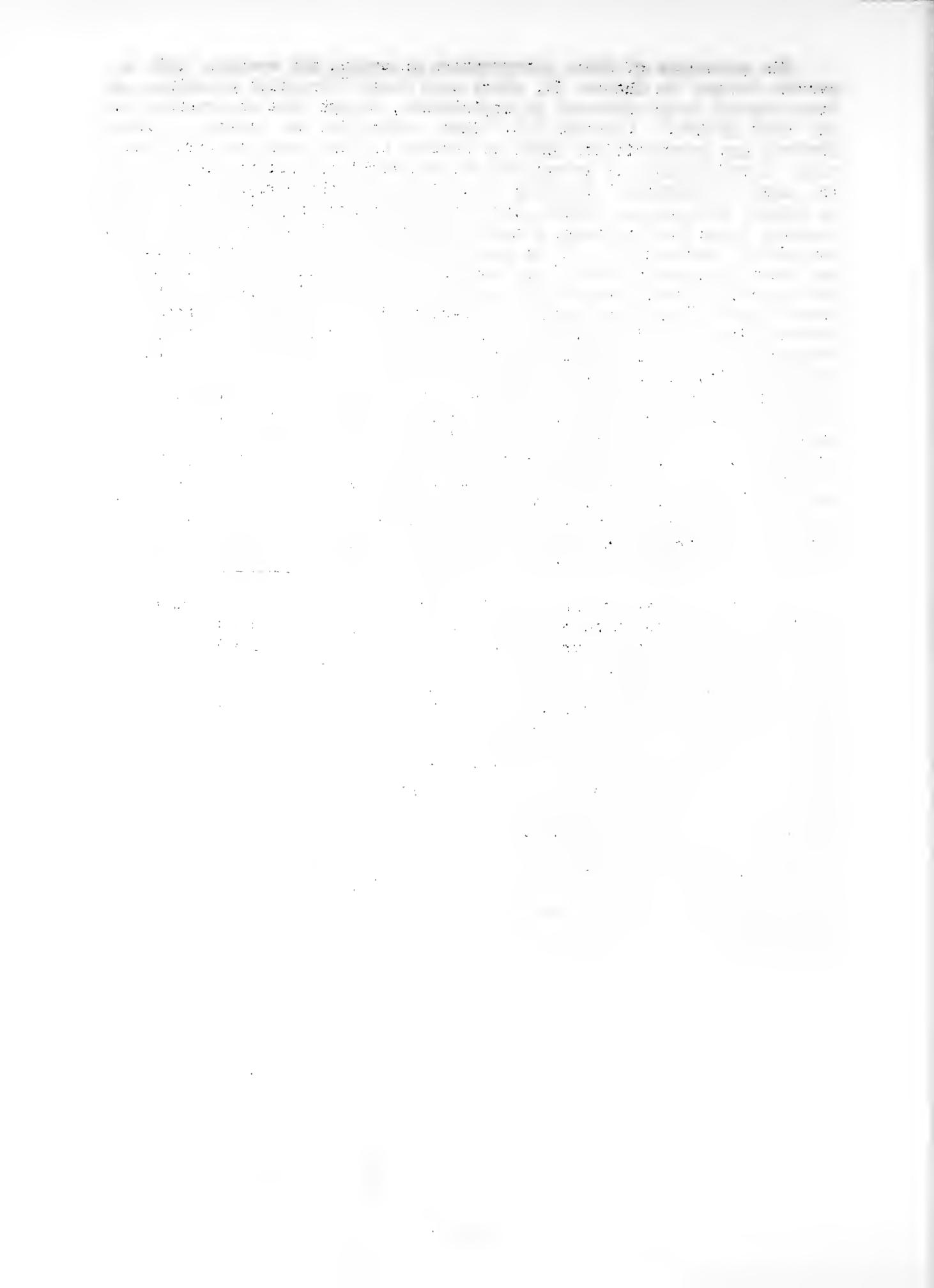
act charged as an offence;" and (Section 27) that "except in times of invasion, rebellion, insurrection or grave emergency, no citizen shall be denied redress by due process of law for an actionable wrong done to or suffered by him." Provision is made also for protection not only by the law but by the Courts in their application of the law; thus section 25 affirms "the right to move the Supreme Court by appropriate proceedings for the enforcement of any of the rights conferred by this Chapter," and it specifically endows the Supreme Court with "power to issue directions in the nature of Habeas Corpus' Mandamus, prohibition, quo warranto and certiorari" appropriate to such rights, together with an undertaking that the right to enforce these remedies shall not be suspended unless, in the circumstances specified in section 27", the public safety may so require."

The Constitution, then, embodies, even in minute detail, the dislike and distrust of the executive government which Bagehot regarded as "a peculiarity of the English people." This, however, is not merely an exotic product, an imitation of English legal phraseology; it expresses, as in England, a spirit of "resistance, more or less legal, or more or less illegal, more or less audacious or more or less timid, to the executive government," the spirit which Burmans displayed under the British and the Japanese. Even if this spirit of resistance was not wholly of British origin, it gathered strength under British rulers who themselves venerated and valued the spirit of resistance. Yet, in addition to restrictions on liberty in the interest of public safety, recognition is accorded in this chapter to restrictions in the interest of public welfare. The general guarantee in section 23 of the right of private property and private enterprise is qualified in subsequent clauses prohibiting the use of the right of private property to the detriment of the general public, and the formation of private monopolist organizations "calculated to injure the interests of the national economy," and in clauses sanctioning the limitation or expropriation of private property, if so required by the public interest (though "only in accordance with law" and on payment of compensation as prescribed by law), and sanctioning also the nationalization or acquisition by the State of economic enterprises" by law, if the public interest so requires."

In chapters III and IV, however, the Constitution appears to be coloured by ideas of public welfare rather than of private right; they amplify the vague aspirations after social justice which found expression in the original draft and in the Preamble. Chapter III deals with the relations of the State to peasants and workers. It begins with the pronouncement (section 30) that "the State is the ultimate owner of all lands." (In this, however, there was nothing revolutionary; it merely restated the basic principle of the land policy of the Indian Government, which already found expression in the law of Lower Burma that the occupation of land did not confer the right of ownership but only a 'landholder's right'.) The assertion of state ownership, however, acquired a new significance in the prohibition of large holdings and in the express reservation of the right to distribute land for "collective or co-operative farming or to agricultural tenants" (Sub-sections 2 and 3). As regards workers, the State acknowledged responsibility for their protection by social legislation and proclaimed its right "by economic and other measures" to help workers to help themselves "for protection against economic exploitation (section 31).

The principle of State intervention in social and economic life is carried further in Chapter IV, which sets forth "directive principles of State policy" to be observed in legislation, though "not enforceable in any court of law." (section 32). These principles are stated in liberal phraseology: every citizen shall be secured in "the right to work, the right to maintenance if incapacitated, the right to rest and leisure and the right to education" (section 33). Obviously these rights could not be secured without very active intervention in most aspects of social and economic life; for instance, primary education is to be not only free but compulsory (section 33). It is laid down also that "the economic life of the Union shall be planned," and that policy shall be directed towards giving preferential treatment "to economic organizations not working for private profit" and especially to "co-operative and similar economic organizations (section 41, 42). And the final section in this chapter prescribes that policy shall be directed towards the operation of all public utility organizations, and towards the exploitation of all natural resources by the State or by local bodies or by people 'co-operative organizations' (section 44). This section is further explained and amplified in sections 218 and 220 in Chapter XIII dealing with general provisions. The following chapters V and VIII deal successively with the President as Head of the State, the Legislature, the Executive Government and the Judiciary. Provisions regarding the constituent units are contained in Chapters IX and X. The last four chapters contain various provisions regarding the amendment of the Constitution, international relations, miscellaneous details and transitional arrangements.

From this brief summary certain points with regard to the character of the Constitution stand out clearly. It is apparent that the Constitution as finally adopted agreed very closely with the original conception of a national government uniting all the peoples of Burma for their common welfare which Aung San envisaged when the achievement of independence through peaceful measures and by legal forms first became a realisable ideal. Both the original conception and the final product embody two conflicting principles; the principle of individual freedom under the rule of law, characteristic of British rule; and the principle of social obligation as a reaction against the social disintegration and economic disabilities resulting under British rule through free enterprise under the rule of law. The Constitution voices socialist propensities; yet through the whole document the emphasis is on individual rights; obligations are imposed upon the State, but not one clause imposes any duty on the people or suggests that individual rights are in any way conditional on the performances of social duties. Perhaps it may best be summarized as a liberal Constitution with socialist aspirations. How these will blend in practice is as yet uncertain.



## CHAPTER II. THE CENTRAL GOVERNMENT. 1/

### 1. The President (Sections 45-64).

The Head of the State in Burma is the President of the Union. To those who are insufficiently acquainted with English constitutional theory and practice and with their application under British rule in Burma, this bare statement may suggest that he exercises, or was intended to exercise, powers corresponding to his august position. In England, the sovereign can act on his discretion within the vague limits of the royal prerogative but, especially under the influence of liberal ideas, the prerogative has been so restricted that in practice he exercises his powers and performs his functions only on the advice of the elected Government, though the Crown still serves to form a link between the Dominions. In Burma under British rule, even after 1937, the Governor, as representative of the Crown, still retained the right to act on his own discretion in certain circumstances; but this was repugnant to nationalism reinforced by liberalism, and in practice he accepted, as in normal circumstances he was bound by law to accept, the advice of the elected Ministry. But, like the Crown within the Empire, the Governor formed a link, the only link, between Burma proper and the scheduled areas. The nationalist leaders had no experience of any other form of government and, in their deliberations on the status and powers of the President, they carried the liberal theory of British rule to what seemed its logical conclusion, with the head of the State, formally at least, as little more than a figurehead.

This conclusion was implicit in the first outline sketch of a Constitution approved by the General Convention of AFPFL in May, 1947. The appointment of a President as Head of the State was one of the fourteen points in this document. The State was to be federal Union in which certain classes of subjects were "assigned exclusively" to subordinate legislatures, and the President was the only organ of government representing the Union as a whole and linking up the subordinate legislatures with the Union Legislature. The highest executive organ of the Union was to be, not the President, but the Union Government, responsible to representatives of the people in the Legislature, and deriving all their powers and authority from the people. In these circumstances a President would be in much the same position as the former Governor, but without the discretionary powers that the Governor had enjoyed as representative of the British Crown. The draft approved by the General Convention was "the skeleton which, after it had been invested with flesh and blood by the Constituent Assembly, became the accepted Constitution of the Union of Burma, 2/ and in the Constitution the position of the President remains essentially the same as that originally contemplated.

The President must be a citizen of the Union, who was, or both of whose parents were, born within the Union; he must be qualified for election to Parliament, but may not be a member of either Chamber. He is

1/ (In the following sections dealing respectively with Parliament, the Government and the Judiciary, articles of the Constitution which fall within the corresponding chapter of the Constitution are not ordinarily cited by number; articles are cited only if they must be looked for in some other chapter.)

2/ See Burma's Fight For Freedom. Government Press, Rangoon, 1948, p. 49.

entitled to an official residence, and his emoluments and allowances are fixed by law. At present he occupies the residence of the former Governor, a flamboyant edifice designed to symbolise, unfortunately in the architectural style of the eighteen nineties, the majesty of British power. His modest salary is only 5,000 Kyats (approximately U.S. \$1,050) a month, half that formerly drawn by British Governors. As Head of the State he receives State guests and incurs other expenditure on official entertainments, and he must proceed at times on ceremonial tours; for these and other miscellaneous necessary expenses he draws a fixed allowance in addition to his salary, but his position is one of duty and dignity rather than of profit.

The President is elected by secret ballot of both Chambers of Parliament in joint session; he holds office for five years and may be re-elected, but no one may serve as President for more than two terms in all. His powers and functions are closely limited for, except so far as otherwise provided in the Constitution, they are "exercisable and performable only on the advice of the Union Government." He appoints a Prime Minister, but only on the nomination of the Chamber of Deputies; and he also appoints the other members of the Union Government, but only on the nomination of the Prime Minister. It is the President who summons, prorogues or dissolves the Chamber of Deputies (and thereby both Chambers) but he must do so in accordance with the advice of the Prime Minister. To this rule there is one apparent exception. If the Prime Minister ceases to retain the support of a majority in the Chamber, he must resign unless (section 119) the President on his advice dissolves the Parliament. In such circumstances the President may disregard the advice of the Prime Minister, who can no longer act effectively as head of the Government, and he may call on the Chamber to nominate a new Prime Minister. The former Prime Minister continues to carry on the duties of his office until a successor is appointed (120) but, if the Chamber fails to nominate a new Prime Minister within fifteen days, the President must dissolve it.

Normally every Bill passed by both Chambers requires the signature of the President for its enactment, but, if he fails to sign it within seven days, the Bill becomes an Act without his signature. The right to pardon convicted offenders is vested in the President. The Constitution expressly provides also that the President may communicate with the Parliament by message or address on any matter of national or public importance; and he may address a message to the nation at any time on any matter. If the office of Speaker or Deputy Speaker in either Chamber be vacant, the President may appoint a member of the Chamber to perform the duties of a Speaker (67). The President is empowered also to refer to the Supreme Court any question of such nature and of such importance that it is expedient to obtain the opinion of that Court (151).

In certain circumstances the President has special powers. He may issue a Proclamation of Emergency which has the effect of extending the authority of the Parliament over the subordinate legislature of the component States (94); such a Proclamation however ceases to operate after six months unless extended by a resolution of both Chambers. Further, at any time when both Chambers are not in session, The President, if satisfied that the circumstances require him to take immediate action, may promulgate Ordinances which have the effect of law (110); any such Ordinance however must be laid before the next ensuing session of Parliament, if not earlier

withdrawn, within forty-five days from the date of promulgation; so far as any ordinance is beyond the competence of Parliament, it is void. Thus, even in an emergency the authority of Parliament over the President is ensured. And in respect of all the powers and functions specified above he must act "only on the advice of the Union Government."

This limitation applies to all matters except where the Constitution provides that he shall act on his discretion or on the advice or nomination of, or on a communication from, some source other than the Union Government.

Recently some Buddhist dignitaries sought an interview with the President, in connection apparently with a dispute as to the administration of one of the national pagodas, but they were informed that he could not receive a deputation except with the consent of the Cabinet. 3/ The President may "in his discretion" remove certain disqualifications for the franchise or for membership of the Parliament (14). If the Chamber of Nationalities requests him to refer to a Committee of Privileges the question whether a bill is or is not a "Money Bill," the President may "in his discretion" accede to the request; and the eventual decision of the President "in his discretion" is final (107). If the Shan State Council submits a Bill for his signature, he may "in his discretion" refer to the Supreme Court the question of its constitutional validity, and in such case he must abide by the advice of the Supreme Court (157). The same provision applies also to other States. The validity of anything purporting to have been done by the President under the Constitution may not be called in question on the ground that it was done otherwise than in accordance with his constitutional powers, and he is not answerable to either Chamber or to any Court for his acts and behaviour; but either Chamber may by a two-thirds majority impeach him for high treason, violation of the Constitution or gross misconduct. Any such charge must be investigated by the other Chamber, and a resolution by a two-thirds majority of the investigating Chamber that the charge has been sustained operates to remove the President from his office.

The foregoing exposition of the powers and functions of the President may suggest that he is merely an ornamental figurehead. But he can be much more than this. Bagehot regarded as inherent in the English constitutional monarchy "the right to be consulted, the right to encourage and the right to warn." In the Constitution these rights are fully safeguarded. The Prime Minister must "keep the President generally informed on all matters of domestic and international policy" (124), and the right to be consulted implies the right to encourage and to warn. The Head of the State in Burma is weaker than in England both because there is not the same long tradition of loyalty to an hereditary line, and because the limitation on the term of office of a President precludes the attainment of authority based on ripe experience that in England the sovereign may accumulate by the passage of years. Yet the rights to be consulted, to encourage and to warn are not entirely nugatory. In any case they were the most that, at the time of framing the Constitution, Burmans would tolerate; perhaps too readily they confounded executive discretion and dictatorship. And the weakness of the President may have one advantage. A Parliament normally lives four years and a President holds office for five years. The

3/ See Myamma Alin. November 2, 1956.

time must soon come when a President will be elected in the last year of a Parliament and in the next Parliament the party which elected him may no longer have a majority. In those circumstances a President who was more than a figurehead would be a public danger.

The third election of a President in March, 1957, has brought to notice a further advantage of the position held by the President under the Constitution. The first President was a Shan, mainly on the fortuitous ground that, as Vice-Chairman of the Constituent Assembly, he succeeded to the Chairmanship when U Nu was called on to head the Government after the assassination of Aung San. The second President was a Burman. The third President is a Karen, and it now seems to be established as a convention that, so far as possible, the President shall be appointed from each of the constituent States in rotation. This useful convention could hardly have been established if the functions of the President had not been mainly ceremonial and advisory.

## 2. Parliament: (A) In the Constitution.

(i) General Provisions (Section 65 to 82.) Officially, though not in common usage, the Union Legislature is styled the Parliament (in the Burmese version Pa-li-man). It consists of the President, the Chamber of Deputies and the Chamber of Nationalities; the former represents the citizens as individuals and the latter represents the territorial and racial components of the Union. The Parliament must meet at least once a year and the interval between two successive sessions must be less than twelve months. Each chamber elects from among its members a Speaker to preside over its meetings and to perform such other functions as may be prescribed in the rules of procedure; unless the Speaker resigns, or is removed by a majority vote, he remains in office for the duration of the Parliament and until immediately before the first meeting of the Chamber in a new Parliament. Each Chamber also elects a member as Deputy Speaker to act for the Speaker as occasion may arise. The salaries of the Speakers and Deputy Speakers are determined by an Act of the Parliament. The Constitution guarantees to all members freedom of speech within the limits allowed by the Constitution and the rules of procedure, and it also protects them against legal proceedings in respect of their speeches and votes; all the official reports and publications of the Parliament or of either Chamber are absolutely privileged. Members are entitled to such salary and allowances as may be fixed by law.

Unless legally disqualified, every citizen who has attained the age of eighteen has the right to vote in any election to the Parliament, and every citizen who has attained the age of twenty-one is eligible for membership; there is no property qualification for voting or for membership, and no law may be enacted disqualifying any citizen for voting or membership on the ground of sex, race or religion. The Constitution provides, however, that members of a religious order may by law be debarred either from voting or being a member of either Chamber. Under sections II and 27 of the Parliamentary Election Act of 1947 members of the Buddhist clergy and ministers of religion in general are debarred both from membership and voting; provisos to these sections explain, however, that Buddhist members of Parliament are allowed to take the yellow robe while Parliament is not in session, and that Buddhist clergy and temporary ministers of religion are only debarred from voting so long as they are practising as such.

The main grounds of disqualification for membership are set forth in the Constitution. One of these grounds is of practical importance in connection with the definition of citizenship. Every person born in Burma, if even one of his grandparents was a Burman, is a citizen of Burma. This would include most Anglo-Burmans, Indo-Burmans and Sino-Burmans, who may also be subjects of a foreign power; but any one who is a subject, or is entitled to the privileges of a subject, of a foreign power, is disqualified from membership of either Chamber. The other grounds are undischarged bankruptcy, certified insanity, electoral corruption or malpractice and conviction of a serious offence; the last three disqualifications may be purged by lapse of time or removed by the President in his discretion. The provisions in the Constitution relating to disqualification for membership are elaborated in Chapter V of the Parliamentary Election Act, which is, however, to much the same effect. The disqualifications for voting are also regulated by the Election Act; no person may be included in the electoral roll if certified insane, or if disqualified under Chapter V for electoral corruption or malpractice, and no one may vote if in prison. The Constitution makes provision for laws relating to the recall of members, but no such law has been enacted.

The Constitution requires also that the delimitation of constituencies, the conduct of elections and the decision of disputed elections shall be regulated by law, and these are dealt with in the Election Act. All members of the Union Government and the Attorney General have the right to speak in either Chamber and in any joint sitting of the Chambers, but no one is entitled to vote except in the Chamber of which he is a member. Each Chamber makes its own rules of procedure, and the President in consultation with both Speakers makes rules regarding joint sittings of the Chambers. The Parliament may not discuss the conduct of any judge of the Supreme Court or the High Court except on a resolution for his removal. On the other hand the validity of any proceedings in the Parliament may not be questioned in any Court on the ground of irregularity in procedure.

(ii) The Chamber of Deputies (Sections 83 to 86). The Constitution requires that there shall be not less than one member of the Chamber of Deputies for each 100,000 of the population. The population is about 20 million and the minimum number of deputies is therefore 200. The number must also be as nearly as practicable twice the number of members of the Chamber of Nationalities, which is fixed by the Constitution at 125. Under the Election Act of 1948, as most recently amended, the number of members is fixed at 250 and the several constituencies were also determined in the same Act. Under this Act the constituencies are distributed among the constituent territorial and racial units as shown below:

The Shan State	25 members;
The Kachin State	7 members;
The Chin Special Division	6 members;
The Kayah State	2 members;
The remaining area	203 members;
Total .....	250 members.

The constituencies must be revised not less than once in ten years and in every revision the proportion between the number of members and the population as ascertained at the last preceding census should be as nearly as practicable the same for all constituencies, except that in the sparsely

populated Kayah State and Chin Special Division the proportion may be higher. The latest revision was approved by Parliament early in 1956 in time for the general election in the following April. A general election must take place not later than 60 days after the dissolution of the Chamber, and polling must as far as possible take place on the same day throughout the Union; the Chamber must meet within sixty days from the polling day. In view of the disturbed conditions in some parts of the country during the general election of 1956, the President had to take action under his emergency powers, as defined in sections 80 A and 91 of the Election Rules, to allow the elections in certain constituencies to be postponed, and, when the Chamber of Deputies met in June, only 240 seats had been filled and ten elections were still pending. The normal life of the Chamber is four years but, in the event of a grave emergency declared by proclamation under section 94 of the Constitution, the two Chambers by a two-thirds majority in a joint sitting may prolong the life of the Chamber from year to year so long as the state of emergency continues.

The distinctive function of the Chamber of Deputies is to approve the annual estimates of the receipts and expenditure of the Union, and it must take those into consideration as soon as possible after they have been presented. The legislation required to give effect to the financial resolutions of the year must be enacted within that year, except so far as may be provided by specific enactment in each case. The initiative in respect of the appropriation of public funds rests with the Government, and the Chamber may not pass any vote or resolution on such matters unless the purpose of the appropriation has been recommended to the Chamber by the Government.

Under the Payment of Members Act V of 1952 members of the Chamber of Deputies were allowed a salary of K.300 a month with a daily allowance of K.20 while attending a meeting of the Parliament or of a Committee, together with travelling allowance for journeys on parliamentary duty.

(iii). The Chamber of Nationalities (Sections 87 to 89). The number of members of the Chamber of Nationalities is fixed by the Constitution at 125. The allocation of these is set forth in a schedule appended to the Constitution. As amended after the creation of the Karen State by Act XIV of 1952, which came into force on June 1, 1954, the distribution of the members among the territorial and racial units is shown below:

The Kachin State	12 members;
The Karen State	15 members;
The Chin Special Division	8 members;
The Shan State	25 members;
The Kayah State	3 members;
The remaining area	62 members;
Total	125 members.

The Kayah State is represented by its three chieftains, and the representatives of the Shan State are chosen by the Sawbwas from among themselves. The revocation of this concession was proposed in a draft bill published in the official Gazette in December, 1956, for consideration in the next session. The constituencies for the remaining areas were fixed at the latest revision under the Parliamentary Election Act. Of the 12 Kachin Constituencies 6 are Kachin constituencies and 6 are general constituencies.

The general election for the Chamber of Nationalities should be completed not later than the fifteenth day from the first meeting of the Chamber of Deputies after a dissolution, but in the general election of 1956 this was found impracticable and, as for the Chamber of Deputies, some elections had to be postponed; at the first meeting of the Chamber of Nationalities 25 seats were still vacant. A dissolution of the Chamber of Deputies operates as a dissolution of the Chamber of Nationalities. The Chamber of Nationalities has no control over finance, and its procedure with respect to Money Bills is explained under the head of Legislation. In other respects the provisions relating to the Chamber of Deputies apply also to the Chamber of Nationalities.

(iv) Powers (Sections 90 to 97). In general the sole and exclusive power of making laws is vested in the Parliament. But any authority duly empowered under an Act of Parliament may make rules and regulations having the force of law; such rules must be consonant with the Act under which they are framed, and they must be laid before each Chamber at its next ensuing session and are then liable to annulment within three months by a motion carried in both Chambers. The Constitution also recognizes the principle of regional autonomy and expressly permits the delegation of specified powers to legally constituted local authorities. The law-making power of the Parliament is limited in respect of the component States. For each State there is a State Council which has the exclusive power of making laws for the State in respects of matters enumerated in the State Legislative List given in the Third Schedule appended to the Constitution. This list includes "all matters which in the opinion of the President are of a merely local or private nature in the State." "For greater certainty," therefore, the same Schedule comprises a Union Legislative List, and any matter covered by this list may not be deemed to be a matter of a local or private nature under the State Legislative List (for the Union and State Legislative Lists, see Appendix A below).

There is still a further limitation on the powers exercisable by the Parliament. No concession regarding natural resources within one of the Component States may be issued except after consultation with the Union Minister for the State concerned, and the Parliament may therefore not sanction such a concession unless the Minister concerned has been consulted. Recently a project for a joint venture with a private company for the working of mineral deposits in the Kayah State was nearing completion but had to be postponed because this condition had been overlooked. On the other hand the powers of the Union Parliament may be enlarged through the surrender by a State Council of any of its territories or any of its constitutional rights and powers. If the President declares by a Proclamation of Emergency that a grave emergency exists whereby the security of the Union is threatened, whether by war or internal disturbance, or that a grave economic emergency affecting the Union has arisen in any part of the Union, the Parliament obtains power to make laws with respect to any of the matters enumerated in the State Legislative List. This does not restrict the law-making power of the State Councils, but any provision of a State law which conflicts with a law passed by the Union Parliament under its emergency powers becomes inoperative. As already explained, a Proclamation of Emergency, unless renewed, ceases to be valid after six months, but may be renewed from time to time for a further period of twelve months by resolutions of both Chambers. A law made under a Proclamation of Emergency ceases to have effect six months after the Proclamation has

ceased to operate. The Parliament may also be empowered to legislate on matters in the State Legislative List concerning two or more State Councils if they consider legislation by Parliament to be desirable and pass resolutions to that effect. But any such Act may, as regards any State to which it applies, be amended or repealed by an Act of the State Council.

The Parliament has no power over the revenues assigned to the component States in the State Revenue List appended to the Constitution as Schedule IV (see Appendix B below). All such revenues form part of the revenues of the State in or by which they are received. All revenues other than those enumerated in that list form part of the ~~and not~~ <sup>been</sup> of the Union, but the Constitution expressly sanctions grants ~~to~~ <sup>to the</sup> ~~the~~ <sup>Cham</sup> is out of Union revenues to the component units, and a State ~~and~~ <sup>Advisory</sup> Board has been constituted to make recommendations with regard to such grants.

Finally, the right to raise and maintain military, naval and air forces is vested exclusively in the Parliament, and all other military or semi-military organizations (apart from civil police) are strictly prohibited.

(v) Legislation (Sections 98 to 113). Proposals for legislation may be introduced either by a representative of the Government or by a private member. Any Bill, other than a Money Bill, may be initiated in either Chamber and, if passed in that Chamber, it is sent to the other Chamber. If it be approved, with amendments if necessary, by both Chambers, it is presented to the President for signature and promulgation as an Act. In default of agreement between the two Chambers the President must convene a joint sitting of both Chambers. In such a joint sitting no amendments are allowed except with reference to the points on which the two Chambers are not agreed. If the Bill, with or without the amendments proposed by the other Chamber, is then passed by a majority of the members present and voting, it is deemed to have been passed by both Chambers, and is submitted to the President in accordance with the usual procedure. If the President omits to sign any Bill within seven days from the day on which it was presented to him, it becomes an Act without his signature.

A Money Bill can originate only with the Chamber of Deputies. A comprehensive definition of a Money Bill states in its general effect that this term covers any Bill relating to taxation or to the financial activities of the Government. A certificate by the Speaker of the House of Deputies that a Bill is a Money Bill is ordinarily final and conclusive. The Chamber of Nationalities may, however, request the President to refer to a Committee of Privileges the question whether the Bill is, or is not, a Money Bill. The President need not defer to the request but, if in his discretion he decides to do so, he refers the question to a Committee of Privileges consisting of an equal number of members of both Chambers, with a judge of the Supreme Court as Chairman. The President need not accept the opinion expressed in the report of the Committee; this is left to his discretion, but his decision on the question is final. No Bill imposing taxation, or appropriating funds for the ordinary services of the Government, may include any other matter. Although a Money Bill may be initiated only in the Chamber of Deputies, it must, when approved by the Chamber, be sent to the Chamber of Nationalities for comment. With or without comments, the Bill must be returned to the Chamber of Deputies within twenty-one days; if it is not returned within that period, or is returned with

recommendations which the Chamber of Deputies does not accept, it is deemed to have been passed by both Chambers at the expiration of twenty-one days.

The President, as already explained, has power, in matters of urgency when both Chambers are not in session, to promulgate Ordinances which have the same force and effect as an Act of Parliament. Every Act must be promulgated by publication in the official Gazette and comes into force on the date of promulgation or at such time as may be prescribed in the body of the Act.

(vi) - ~~Joint Sittings~~. The procedure in connection with Joint Sittings of the Chambers is not dealt with in the Constitution but is set forth in separate ~~Rules~~ <sup>Section 14</sup>. The date of a proposed joint sitting must be publicly notified. One hundred members must be present to constitute a quorum. The Speaker of the Chamber of Nationalities must take the Chair or, if he cannot attend, the Speaker of the Chamber of Deputies. The Secretary to the Chamber of Nationalities acts as Secretary for the joint sitting. No business may be taken into consideration except that for which the joint sitting is called. For example, when the President summons a joint sitting to deliver a message to the Parliament, any discussion of his address must be reserved for a later day. And no amendments to a Bill may be proposed except with regard to the points of difference between the two Chambers which the joint meeting has been called to settle.

## 2B. The Parliament: (B) In Operation.

The law relating to elections is contained in the Parliamentary Election Act of 1948, as subsequently amended, and in the Rules under that Act. The procedure is based substantially on that of the Legislative Council under British rule, which followed an Indian model, deriving originally from England. English electoral procedure represents the accumulation over a long period of devices to prevent malpractice; Indian ingenuity discovered new loopholes and invented new precautions; in Burma there have been further accretions during the thirty years of electioneering since the first introduction of dyarchy. Hence the procedure offers numerous traps for the unwary and opportunities for the sophisticated. However, the Act allows the employment of agents, and most of these seem to know the law well enough to take advantages of mistakes by their opponents. Out of about three hundred contests in the elections of 1956 there were thirty petitions against the result.

The distribution of seats in the Chamber of Nationalities is fixed in the Constitution, but the Election Act allocates among the various communities the number of seats in the Chamber of Deputies, and Rules under the Act delimit the constituencies for both Chambers. A voter may be entered on the electoral roll and may stand for election in any constituency in which he is "ordinarily resident." But the mere "maintenance of a dwelling ready for occupation in which he occasionally resides" is held to constitute ordinary residence, so that the obstacles to "carpet-baggers" are not formidable. For the general elections of 1956 the compilation of the electoral rolls began in April 1955, and they were notified as finally confirmed in January, 1956. The total number on the rolls was 8,570,308, including 110,628 in the armed forces and 571 residents abroad. According to the returns the electorate had increased by about a million since the elections of 1952, but the apparent increase was probably due in part to

more accurate registration. As already mentioned, certain restrictions are imposed on members of a religious order and on ministers of religion. For greater facility in voting the Returning Officer prepares a set of boxes marked by some distinctive symbol chosen by the candidates, and at the time of voting the Presiding Officer gives to each voter a token that he can put into the appropriate box behind a screen. The elections for the Chamber of Deputies precede the elections for the Chamber of Nationalities, but the latter should be completed not later than the fifteenth day from the first meeting of the Chamber of Deputies.

The Election Act however permits the postponement of an election if circumstances prevent it from being held on the date fixed. Defeated candidates are allowed to petition against the result of an election, and the numerous grounds on which an election may be contested are specified in the Rules. Election petitions are tried before a Commission of three members selected by the President from a panel of judges submitted annually to him by the Chief Justice of the Union; one of the three is ordinarily a Judge of the High Court. An elected member against whom a petition is filed takes his seat in the Chamber pending the result of the enquiry, but vacates it if the decision is against him, and a new election must then be held.

The Parliament still occupies the building originally put up for the Legislative Council of 1923, when one storey provided ample accommodation for a single Chamber. It is a modest though not unattractive structure set in the inner courtyard of the Secretariat, a pretentious edifice of three to four storeys, embellished with turrets and porticos in the Byzantine tradition of Indian Imperial architecture as standardized by the Public Works Department in the closing years of the nineteenth century. The situation of the Council House, overshadowed on all sides by the Secretariat, and the contrast between the accommodation provided for the representatives of the people and that required for housing the administrative machinery, symbolise not unaptly their former relative importance in the conduct of affairs. The main assembly hall just allows sufficient room for a joint sitting of both Chambers; ordinarily it is reserved for meetings of the Chamber of Deputies, and the Chamber of Nationalities has to hold its sittings in the Law Courts. Plans for a new parliament buildint at a cost of about Rs. 30 million (\$6.3 million) have been approved; construction has been delayed by financial stringency.

The main council chamber is designed on the model of the House of Commons at Westminster; the seats are arranged in straight rows and not round the arc of a circle. It is a long hall with a dais and a table for the speaker at one end and with a gangway down the middle separating the Government from the Opposition. The leaders on each side face one another across a table for officials and reporters and the other members on either side of the gangway face the Speaker. As Sir Winston Churchill has remarked, the tone of a legislative body arranged like this tends to differ from that of one arranged on a circular pattern; a member is either for the Government or against it; he must choose his side and cross the gangway to go from one side to the other.

Similarly, in all matters of procedure the English practice was adopted without question as natural; the forms of English parliamentary government

were native to the English members of the mixed legislature under British rule and they soon became familiar to the other members. Despite the unpretentious exterior aspect of the building, care was taken to give an air of solemn dignity to the business transacted within it. The speaker wore a ceremonial robe and, as in the House of Commons, had a mace with a macebearer to carry it. This tradition still survives. During the Japanese regime Dr. Ba Maw ridiculed "political play-acting," but the players learn at least to act their parts. New members get their first lesson at the opening meeting of each session. When the members assemble in compliance with a summons from the President, the Secretary to the Chamber announces the name of the member appointed by the President to take the Chair pending the election of a Speaker. The member so designated, who has been waiting in an ante-room, then enters the Chamber, but in his ordinary costume and without any mace-bearer to precede him, and takes his seat in the Speaker's chair. He calls on the members in due succession to make the prescribed declaration of loyalty in the terms laid down in a schedule to the Constitution. On the conclusion of this ceremony the mace, which had been lying on the dais, is placed on the Speaker's table as a symbol that the Chamber is in session.

The ordinances, if any, promulgated by the President under section 110 of the Constitution while the Parliament was not in session, are then laid before the Chamber by the Ministers concerned and the Chamber proceeds to business. The acting Speaker calls for nominations for the offices of Speaker and Deputy Speaker; for the election of a Prime Minister, if that office is vacant; and for the election of a Public Accounts Committee, and the House Committee and for members to represent the Parliament on certain public bodies, such as the University Council and the National Mausoleum. At the same time he fixes the dates on which these elections are to be held. Any bills of which notice has been given are then introduced and dealt with in accordance with the procedure explained below. In the new Parliament of 1956 the former Speaker, who had also been appointed provisionally as Acting Speaker, was re-elected without opposition. He thereupon adjourned the Chamber for a brief interval before returning, dressed in the Speaker's official gown and preceded by his mace-bearer. This ceremony completes the ritual of his appointment, and should impress on members the dignity of the office rather than of the man. In accordance with English parliamentary traditions the leaders of all sections of all parties thereupon congratulated him and assured him of their confidence in receiving fair treatment, to which he replied with an assurance that their confidence was not misplaced, that he would do everything possible to secure justice and fair play for all parties, that he looked for their support in maintaining the dignity of the House and enforcing strict compliance with the rules, and he exhorted them to keep their temper even if opponents in the heat of debate should throw unpleasant words at them. A Deputy Speaker was then elected on party lines.

Certain bodies must be appointed by the Speaker at the beginning of each session: the Panel of Chairmen, two Bill Committees and the Committee of Privileges. The Panel of Chairmen consists of eight members whose function it is to preside over the various committees. Each Bill Committee consists of the member submitting the Bill, the Minister concerned, the Attorney-General, a member of the Panel of Chairmen, and not more than fifteen members nominated by the Speaker, with the Secretary to the Chamber as Executive Officer. The function of a Bill Committee is to scrutinize

draft Bills and see that they are in order and suitably drafted, and to report on them before they come before the Chamber for consideration. The Committee of Privileges consists of the Deputy Speaker, the Attorney General, a member of the Panel of Chairmen and seven members nominated by the Speaker. Its function is to report on any question of privilege referred to it by the Speaker. The Rules do not fetter the discretion of the Speaker in nominating members to these bodies, but in practice he arranges that all important sections are represented by their leaders. Thus the Panel of Chairmen appointed for the first session of the new Parliament in 1956 included a Chin, Kachin and Karen and the leader of the Arakanese section of the Allied Opposition; the Committee of Privileges included two members of the Allied Opposition and one member of the left-wing United Front. One of the Bill Committees included three members of the United Front, and the other included two members of the United Front and one Independent Member.

The Standing Committee on Public Accounts is appointed in the first session of a new Parliament to hold office not merely, like the other committees, for the session, but until the Parliament is dissolved. It consists of a member of the Panel of Chairmen already appointed by the Speaker, the Minister for Finance and Revenue, and ten other members elected by a majority vote from among the members of the Chamber; thus the committee represents the majority or Government party and its recommendations are likely to prove acceptable. Its primary function is to scrutinize the annual Statement of Accounts and the Auditor-General's report thereon and to be satisfied that expenditure has been incurred only in accordance with the grants sanctioned by Parliament; it must bring to the notice of Parliament any case in which funds sanctioned by Parliament under one head of the budget have been re-appropriated to another head, and any case in which re-appropriation within the same budget head has been effected otherwise than in accordance with the conditions prescribed by the Finance Department. It must also bring to the notice of Parliament all requests for expenditure which the Finance Department has recommended for the approval of Parliament. Thirdly, the Committee must examine whether it is satisfied with the accounts maintained by Government commercial enterprises in accordance with the orders of the President and with the reports thereon by the Auditor-General. The final report of the Committee is submitted to Parliament by its Chairman; nothing that transpires in the Committee may be disclosed, but minutes of its meetings must be maintained and submitted together with the report. Other elections made on party lines at the beginning of a session are those for the House Committee and for the outside bodies to which the Parliament appoints representatives.

The daily routine of the Chamber consists in disposing of the questions, motions, resolutions and enactments set down in the List of Business for the day. No business requiring previous notice may be entered in the list of business unless the period of notice has expired, and no business outside the list may be taken up without the leave of the Speaker. One day a week is set apart by the Speaker for the Bills and other business of private members. To the general rule that no business outside the list may be considered there are certain exceptions. At any time the Speaker may allow, if he thinks fit, a motion of condolence or congratulation to be interposed, and thereafter may accept a vote that the Parliament do adjourn. He may also accept a motion for adjournment for the discussion of a matter of urgent public importance provided that it complies with certain conditions

laid down in the Rules to prevent an abuse of this privilege. For example, at the first meeting of the current Parliament, after the members had made their declaration of loyalty, a member of the opposition asked permission to move the adjournment of the Chamber to consider the abuses practised in the recent elections; but the Speaker ruled that, as the elections were over, the matter could not be regarded as of immediate public concern and could be dealt with more appropriately by questions, motions or resolutions. One other exception relates to points of order. Any member may at any time request the Speaker to decide a point of order. A member who is then speaking must immediately resume his seat until the Speaker has given his decision upon the point in question.

The first hour of every sitting is made available for the asking and answering of questions. The question must relate solely to public affairs with which the Government is officially concerned or to some matter of administration for which the Government is responsible, or it may be addressed to a private member in connection with some business before the Chamber for which he is responsible. The question must be asked in suitable terms and may be dis-allowed by the Speaker if he regards it as out of order. Notice, ordinarily ten days, must be given to allow for preparation of an answer, which may be given in writing unless the question is starred as an indication that an oral answer is desired. Facilities for elucidating or forming public opinion by means of such questions are perhaps the best safeguard of democracy in modern parliamentary procedure, which in other matters tends to confine expressions of opinion within strictly party limits.

Any member may at any time submit a motion inviting discussion by the Chamber of any matter of public interest with which it is concerned, or he may frame a resolution making a recommendation as to action that shall be taken by the Government. In both cases not less than fifteen days notice must ordinarily be given to the Secretary to the Chamber. A motion serves merely to elicit opinion, but a resolution demands action by the Government and, if the Resolution is passed by the Chamber, a copy must be sent to the Government for such action as may be deemed appropriate. The relative precedence of resolutions is determined by ballot, and not more than five resolutions may, without special leave from the Speaker, be entered on the list of business for any day allotted to the business of private members. Under the Constitution a special procedure is required for resolutions preferring charges against the Speaker or Deputy Speaker or against the President, and similarly, resolutions expressing want of confidence in the Government or disapproving its policy cannot be introduced without the express approval of at least fifty members shown by rising in their places.

Legislation. For the introduction of legislation the permission of the Chamber must be obtained. A member who wishes to obtain permission must give fifteen days notice of his intention, accompanying the notice with three copies of the draft Act, usually termed, in accordance with English practice, a Bill, together with a Statement of Objects and Reasons. The official language of the Chamber is Burmese but, with the permission of the Speaker, English may be used for amendments of Acts originally passed in English, and this procedure was adopted, despite protests by the Opposition, for an amendment of the Forest Act in the new Parliament of 1956. The relative precedence of private Bills not yet introduced is

decided by ballot. On the day thus determined the member asks leave to introduce the Bill and, in the event of opposition, the Speaker, after hearing such explanation as he thinks fit from the proponent and opponent, obtains the decision of the Chamber without further debate. If the Chamber approves the introduction of the Bill it must then be published in the official Gazette if this has not already been done.

Not less than five days after publication, the member in charge of the Bill may move either: (a) that it be taken into consideration; or (b) that it be referred to a Select Committee, or (c) that it be circulated by the Government to elicit public opinion. On this action the principle of the Bill may be discussed and also its general provisions, but only so far as may be necessary to explain its principle.

(a) If the mover asks the Chamber to take the Bill into consideration the Speaker may direct that it be sent to one of the Bill Committees for scrutiny and report, or he may allow the Chamber to discuss the Bill as if the Bill Committee had already reported on it. The Bill, when first introduced, or after approval if necessary by the Bill Committee, is then taken into consideration clause by clause. After it has been dealt with in this manner the member in charge of it may ask that it be passed. If passed, the Speaker forwards a copy to the Chamber of Nationalities.

(b) If the mover asks that the Bill may be referred to a Select Committee and this motion is accepted the Chamber appoints a Select Committee to examine the Bill in detail.

(c) If the mover asks that the Bill be circulated by the Government to elicit public opinion, the Chamber may either accept or reject the motion. If the mover still wishes to proceed after opinion has been ascertained, he must move that the Bill be referred to a Select Committee unless the Speaker allows a motion that it be taken into consideration.

When the mover on the first introduction of a Bill asks that it be taken into consideration, any member may move an amendment that it be referred to a Select Committee or be circulated to obtain public opinion; and an amendment in the latter sense may be moved if the member in charge has asked for a Select Committee.

A Select Committee must include the member responsible for the Bill, the Minister concerned, the Attorney-General and a member of the Panel of Chairmen together with not more than twelve or less than ten members of the Chamber appointed by it at the time that the committee is formed. The Select Committee may call in experts or representatives of special interests to attend or to produce documents likely to be helpful. It has the power to make such amendments as are relevant to the subject-matter of the Bill and, after such enquiry and discussion as may seem necessary, it submits to the Speaker a copy of the Bill as amended in committee, together with its report. Nothing that is said or done by any member of a committee may be divulged, but any member, when signing the report, may add minutes of reservation or dissent. The report is circulated to all members of the Chamber and, if the Committee so desire, it is printed in the official Gazette.

Not less than five days later the member in charge of the Bill may move that it be taken into consideration as amended by the Select Committee. It is open to him however or to any other member to move that it be sent back to the Select Committee for further consideration or sent to a fresh Select Committee. The Speaker then submits the Bill clause by clause for discussion and approval or amendment; or, if he thinks fit, he may submit the Bill for consideration as a whole without detailed examination of each clause. Amendments require three days notice except with the permission of the Speaker, and, without his permission, a Bill cannot be passed at the same sitting as an amendment. When all the suggested amendments have been disposed of, the Speaker calls on the Chamber to pass or reject the Bill. If it is passed, he sends a copy to the Chamber of Nationalities.

The Bill is then considered by the Chamber of Nationalities which returns it with such amendments as it may consider necessary. If the Chamber of Deputies cannot accept the amendments, a Joint Committee of ten members from each Chamber is appointed with a view to reaching agreement. When both Chambers are finally agreed the Speaker of the Chamber submits the measure to the President for signature. If agreement cannot be achieved, the Speaker submits the Bill to the President with a report to that effect and a request for the holding of a joint session as provided in the Constitution.

Except on days set apart for private business, government measures have the precedence and usually take up all the time. Precedence among private bills not yet introduced is decided by ballot. Among bills that have been introduced precedence in the list of business for the day is given in the following order:

- (a) Bills in which the next stage is the production of a report from a Joint Committee of both houses or from a Bill Committee or from a Select Committee;
- (b) Bills that have been returned after being passed in the Chamber of Nationalities;
- (c) Bills originating in and passed in the Chamber of Nationalities;
- (d) Bills in respect of which a motion has been carried that the Bill be taken into consideration;
- (e) Bills on which a report has been received from a Joint Committee or a Bill Committee or a Select Committee;
- (f) Bills which have been circulated for the purpose of eliciting public opinion;
- (g) Other Bills.

Other private Bills, which have been introduced but which have not yet reached any of the above stages, have priority according to the date and order of their introduction.

There are special provisions relating to finance bills. The budget of estimates for receipts and expenditure for the following year must be presented to the Chamber on the date fixed by the President. No discussion is allowed on the day that it is presented. The subsequent procedure comprises two stages: (a) a general discussion, and (b) the voting of demands for grants. The general discussion is held on the date, not less than four days later, fixed by the Speaker in consultation with the Finance Minister. It must be confined solely to the general financial policy of the budget, and no discussion is allowed on administrative policy which has no direct bearing on the financial policy so disclosed or on any matter exclusively concerning any particular locality or community. The Finance Minister opens the discussion when presenting the budget and has a right of reply at the end of the discussion but in this stage no motion may be moved. The appropriation accounts are then scrutinized by the standing Committee on Public Accounts. In the second stage there is a detailed discussion of the demands for the grant of funds, and for this discussion not less than twelve days must be allotted.

Any member may move the reduction of any proposed grant, but must give three days notice of his intention together with a brief justification. This procedure is commonly adopted by a member who wishes to criticize some aspect of the administration. He moves a cut in the appropriate grant which the Minister then has to justify. The reduction may be merely a token out of no more than K 1, and is usually withdrawn after the Minister has given his explanation; the member is satisfied with having drawn the attention of the Government to the alleged grievance. The motion for a reduction may however be intended seriously and pressed to a division, which naturally follows party lines. No demand for a grant may be made except a recommendation by the Government, and no motion may be made to increase any grant or to alter its destination. The Speaker may fix the time allotted for the discussion of each item and daily at 4 p.m. must dispose of all outstanding matters in connection with the demands allocated to that day. If supplementary expenditure is found necessary during the year, the President fixes a date for consideration of the supplementary demand, which is dealt with in the same manner as a demand for a grant in the budget, and this procedure also applies to any expenditure incurred in excess of the grant made by Parliament.

The Budget, as finally passed by the Chamber, is submitted to the President in the form of a bill for his signature. As explained already, the Chamber of Nationalities has no connection with finance; the Speaker has the power to decide that a measure is a money bill and provision is made in the Constitution for the settlement of any controversy between the two Chambers as to whether a bill has rightly been classed as a money bill. Except with regard to the control of funds the procedure in the Chamber of Nationalities is the same as in the Chamber of Deputies.

### 3. The Executive Government

(a) In the Constitution (Sections 114 to 125). The Union Government consists of a Prime Minister and other members. They are appointed by the President: the Prime Minister on the nomination of the Chamber of Deputies and the other members on the nomination of the Prime Minister. The Government is collectively responsible to the Chamber of Deputies. A member of the Government, other than the Prime Minister, need not be a member of the

Parliament at the time of his appointment, but his appointment imposes if at any time he holds office for longer than six consecutive months without being a member of Parliament. Any member of the Government may resign at any time, and must resign if the Prime Minister so requires. The Prime Minister is obliged to resign if he ceases to command a majority in the Chamber of Deputies unless the President, on his advice, dissolves the Parliament and the Prime Minister secures a majority in the new Chamber after a general election. The resignation of the Prime Minister involves the resignation of all the other members of the Government, but they all, including the Prime Minister, carry on their duties, even after a dissolution of Parliament, until their successors are appointed. The authority of the executive Government extends over the same sphere as that of the Parliament. All executive action by the Union Government is taken in the name of the President but, as explained above, the President normally acts only on the advice of the Prime Minister. However the President should always have a voice in the conduct of affairs, as the Prime Minister is enjoined to keep him generally informed on all matters of domestic and international policy.

The only duty positively imposed on the Government under the Constitution is that of preparing estimates of receipts and expenditure for each financial year and submitting them to the Chamber of Deputies for consideration, but the final appropriation of the revenues and all matters in connection therewith rests with the Chamber of Deputies for regulation in accordance with law. The Government may not declare or participate in any war without the assent of the Parliament but, in the case of actual or imminent invasion, the Government may take whatever steps they may think necessary for the protection of the Union, though the approval of Parliament must be sought at the earliest possible date and, if not then sitting, it must be summoned.

In constitutional practice there is one notable feature to which there is no reference in the Constitution. From the first attainment of independence it has been the practice to recognize one of the members of the Government as Deputy Prime Minister. Presumably this was intended to meet such an emergency as arose on the assassination of Aung San, but it has been found useful as a device for carrying on the business of the government during the not infrequent visits of the Prime Minister to foreign countries. In the new Government formed after the general election of 1956 there was a further development of this practice. Three Deputy Prime Ministers were appointed, and the Prime Minister explained that all three were invested with the full powers of the Prime Minister. Their functions are explained below.

The Attorney-General (Sections 126, 127). The Constitution provides for the appointment of an Attorney-General. He is not necessarily a member of the Government, and need not be a member of either Chamber of the Legislature, but he is appointed by the President on the advice of the Prime Minister, and must resign if so required by the Prime Minister, and goes out of the office with the Government, though, like members of the Government, carrying on his duties until the appointment of a new Prime Minister. He must be an advocate of the High Court, and his function is to give legal advice to the Government and to perform such other duties of a legal character as may be required of him.

The Auditor-General (Sections 128 to 132). Provision is also made in the Constitution for the appointment of an Auditor-General. He is appointed by the President and therefore in effect by the Prime Minister. But he is not a member of the Government and his position is very different. The Prime Minister can nominate a member of the Government without consulting Parliament, but the appointment of the Auditor-General requires the approval of both Chambers, and he holds office until he retires, unless removed from his office in like manner and on like grounds as a Judge of the High Court; nor can his rights or salary be abridged unless he voluntarily agrees to a reduction of salary in the event of general economy and retrenchment. His function is to control on behalf of the Union all disbursements, and to audit all accounts administered under the authority of the Parliament and State Councils; thus his sphere is more extensive than that of the Legislature or the Government. He is also required to submit to the Chamber of Deputies such reports relating to the accounts of the Union and the States as the law may prescribe.

(b) The Cabinet and Ministries. The members of the Union Government when mentioned in English are ordinarily called Ministers and, collectively, in accordance with English usage, the Cabinet, although neither of these terms appears in connection with the Union Government in the English version of the Constitution. In the State Governments, the English version of the Constitution refers -- in (section 162 (3)) -- to a "Cabinet of State Ministers." Each Minister has charge of one or more of the Ministries among which the ordinary functions of government are distributed. For each Minister there is a Parliamentary Secretary and a Private Secretary. The Parliamentary Secretary, as the name implies, is a member of Parliament; he is usually a young and promising politician who aspires to become a Minister himself in course of time. The appointment of both Parliamentary and Private Secretary rests with the Minister, and their functions are a matter of mutual arrangement. The salary of the Prime Minister is K.2,300 (about \$483) a month, and of the other Ministers K.1,700; they have a fixed travelling allowance, varying from one Ministry to another according to the amount of touring likely to be required. The emoluments are certainly not extravagant and, in relation to the status of the office and the incidental expenditure involved, they are barely adequate.

Ordinarily there is a cabinet meeting once a week where all matters of topical interest come up for discussion and the collective policy of the Government takes shape. Subject, however, to the official policy of the Government, each Minister controls the affairs of his own Ministry. For each Ministry there is a Secretary to Government in charge of one or more executive departments, with such Joint Secretaries. Additional Secretaries, Deputy Secretaries and Assistant Secretaries as are thought necessary, together with a subordinate establishment. A Minister who holds two or more portfolios ordinarily has a Secretary to Government with the appropriate staff for each portfolio. Some functions have been delegated to separate Corporations, Boards and Commissions which are intended to be independent of departmental routine but responsible to Parliament through the Minister concerned.

Before the war there were ten Ministries, the limit imposed in the then Constitution. Normally these dealt respectively with Home Affairs, Judicial Affairs, Finance, Revenue, Commerce, Forests, Education, Labour, Agriculture, and Health and Public Works. These functions, together with

those formerly reserved for the official Governor, and with new functions arising out of the post-war situation, are now distributed among a larger number of Ministries. These have varied from time to time both in number and in the method of distribution. In general they fall into two groups; functional and territorial. The functional Ministries are those dealing with the matters reserved under the Constitution to the Union Government, and the territorial Ministers deal with the affairs of the four States and the Chin Special Division.

Some of the functional Ministries have had rather an ad hoc character, changing their name and scope in response to a temporary need to find a man for a job or a job for a man. Of the former ten Ministries only three survive as separate Ministries under the same name; these are the Home, Judicial and Labour Ministries, and of these the Ministry of Labour has at times lost its separate identity. The Ministry of Finance and Revenue now combines two departments formerly separate, and so also does the Ministry of Agriculture and Forests. The functional Ministries are given in the following list together with their respective executive departments or services and with the independent agencies which they supervise; but, as the allocation of these follow changes in the title and scope of the Ministries, the arrangement cannot be regarded as permanent and the list is not intended to be complete.

Functional Ministries, with their Departments and Agencies.

<u>Ministry</u>	<u>Departments, etc.</u>	<u>Agencies</u>
Agriculture and Forests	Department of Agriculture and Fisheries, Forest Department, Irrigation Department Veterinary Department.	Agriculture and Rural Development Corporation, State Timber Board.
Co-operatives and Commodity Distribution	Co-operative Department Department of Civil Supplies	Civil Supplies Board
Democratisation of Local Administration, and Local Bodies		
Education and Culture	Department of Education, Department of Union Culture	Union Youth Council, Council of Cultural Affairs
Finance and Revenue	Customs Department, Excise Department Income Tax Department, Stamps	Union Bank of Burma
Foreign Affairs	Immigration Service	
Health	Health Service, Medical Service	

<u>Ministry</u>	<u>Departments, etc.</u>	<u>Agencies</u>
Home Affairs	Civil Administration, Police Department	
Industries	Department of Industries Industrial Research, Boiler Inspection	Industrial Develop- ment Corporation, Spinning & Weaving Factory Electricity Supply Board
Information	Information Department, Broadcasting Service, Stage and Films, Printing & Stationery.	
Judicial Affairs	Prison Department, Translation Department	
Labour	Labour Department Factories Department	Dock Labour Board, Union Insurance Board, Tile Factory Board.
Land Nationalization	Land Nationalization, Settlement & Land Records, Surveys, State Colonies, Registration.	
Mines	Geological Department, Mines & Explosives.	Mineral Development Corporation, Burma Corporation (1951) Ltd. Burma Oil Co. (1954) Ltd.
Marine (Port, Marine, Civil Aviation & Coastal Shipping)	Marine Service Civil Aviation Depart- ment.	Shipping Board, Airways Board.
National Economy		
Prime Minister, National Defence, National Planning.		Economic and Social Board Bureau of Special Investigation, Public Services Commission.
Public Works & Housing	Public Works Depart- ment	Housing & Country Development Board.
Railways & Inland Communications (Water Transport, Posts & Telegraphs.)	Postal Service, Telecommunications	Railway Board, Inland Water Trans- port Board

<u>Ministry</u>	<u>Departments, etc.</u>	<u>Agencies.</u>
Rehabilitation		Rehabilitation Board
Relief & Re-settlement.		
Religious Affairs, Social Affairs, Mass Education.		Buddhist Council, Buddhistic Institute, Buddhist Education, Mass Education Council
Social Services		Social Services Commission.
Trade Development and Supply.		

Mention has already been made of an interesting and important innovation -- the extended use of Deputy Prime Ministers and the grouping of Ministries. The three Deputy Prime Ministers are the Minister for Foreign Affairs, the Minister for National Economy and the Minister for Social Services. They are charged with supervising groups of Ministries and co-ordinating their activities, and they form, in effect, an Inner Cabinet. The Prime Minister announced that they would exercise the full powers of a Prime Minister, presumably within their own special spheres. <sup>4/</sup>

This experiment may well prove to be a satisfactory solution for the difficult problem of devolution and co-ordination. The Minister for National Economy will be responsible (subject of course to the Cabinet) for the higher direction of Agriculture and Forests, Co-operatives and Commodity Distribution, Finance and Revenue, Industry, Mines, Marine, Railways and Internal Communications, and Trade, Development and Supply. The Minister for Social Services occupies a similar position with regard to Democratization and Local Administration, Education and Culture, Health, Information, Labour, Land Nationalization, Public Works and Housing, Rehabilitation, and Relief and Resettlement. The Prime Minister is in personal charge of National Defence and National Planning, and presumably takes a special interest in the Ministries not allotted to these two deputy Prime Ministers. The third Deputy Prime Minister in charge of Foreign Affairs does not seem to have been allotted any supervisory responsibilities, but would naturally take over the special functions of the Prime Minister in the event of his absence abroad.

There is an interesting innovation also in connection with the territorial Ministries. Under the Constitution there are Ministers for each of the four States and for Chin Affairs, and these are appointed on the nomination of the Prime Minister acting in consultation with the respective Councils. There have always been representatives of the minorities among the functional Ministries and that tradition is still observed in the present Government which includes a Buddhist Arakanese, a Muslim Arakanese, a Shan, a Karen and a Kayah. It seems however that formerly the territorial Ministers had little say, if any, in matters other than those concerning

<sup>4/</sup> On the resumption of office of the former Prime Minister, U Nu, the ex-Prime Minister U Ba Swe, became the fourth Deputy Prime Minister.

their own special territories. Now however they are to have a full voice in the Cabinet. The Constitution limits the powers of the Cabinet over the subordinate constituent units, but now the representatives of these subordinate units will have a share in the Government of Burma proper. The importance of this new practice is that, as the Prime Minister explained when questioned on the subject at a Press Conference, the inclusion of these representatives will enlarge their vision beyond their parochial limits and should help to promote national unity and solidarity.

(c) Planning. When the elections of 1947 had given a clear majority to the AFPFL, one of the most urgent problems for solution was the repair of the damages sustained by Burma through the war and the reconstruction of the national economy. The situation as it appeared to Burmans at that time is described in the introduction to the Two Year Plan for the Development of Burma.

"During the period in which Burma formed a part of the overseas dominions of Britain she has been the scene of intense economic activity in certain spheres... But this period was dominated by the ruling doctrine of laissez faire and the nature and extent of the economic development was determined almost exclusively by the self-interest of foreign capitalists and entrepreneurs ... While public wealth increased, the material conditions of the people saw little improvement." But now, it continued, there was "the opportunity of developing an economy suited to the needs of the country and the genius of our people."

The policy of laissez faire was definitely rejected: there was to be a plan. And the scope of this plan was not to be limited to economic development but to serve as an instrument for the creation of a national economy. This comprehensive objective found expression even before the first session of the Constituent Assembly and, so early as May 1947, a National Planning Board was constituted under the chairmanship of a member of the Governor's Council who became the Member for Planning. It was not merely economic planning, but national planning. There seems, however, to have been some uncertainty as to the scope of its functions; and in February 1948 it was re-named the Economic Planning Board. In fact, its sphere already extended beyond purely economic matters, and in the following April the original name was restored. Since then it has always been styled the National Planning Board.

The combination of economic planning with social reconstruction has from the first been a characteristic and distinctive feature of planning in Burma. It was formally announced in section 41 of the Constitution: "The economic life of the Union shall be planned with the aim of increasing the public wealth, of improving the material conditions of the people and raising their cultural level, of consolidating the independence of the Union and strengthening its defensive capacity." Planning was to comprise all aspects of national life, as is implicit in the Directive Principles of State Policy which are set forth in Chapter IV of the Constitution. One function of the Planning Board was to draw up the two year plan of economic development mentioned above. This plan was devised for promoting economic development and also "equally important -- for laying the foundations of a planned economy and for transforming Burma into a country where the welfare of the common man constitutes the main motive of State activity." It was intended to "transform the village in Burma into a social unit where every individual lives a full and healthy life and enjoys a fair share of

the amenities of modern civilization." On the attainment of independence it was under the Minister for National Planning that the Planning Board continued to function.

One of the earliest measures of the Planning Board was to arrange for the establishment of a committee to formulate proposals for the reconstruction of local government from the village upwards on democratic lines as an instrument of social and economic unity. One team of experts was called in to advise on material development and another to advise on the promotion of social welfare, and at a great National Welfare (Pyidawtha) Conference in 1952 all the plans for economic and social development were brought together and laid before the people.

All these many-sided plans were in the nature of things intimately connected. They all made demands on Burma's limited financial resources and still more limited resources of manpower; hospitals competed with factories for men and money. Planning is futile unless the plans are implemented, and some central authority was needed to co-ordinate the plans and to supervise their execution. This has raised numerous difficult administrative problems for which various solutions have been sought. The Ministry of Planning was only one among many other Ministries, and the intervention of the Ministry of Planning in the activities of other Ministries was not unnaturally resented. One obvious solution was to place the Ministry of Planning directly under the Prime Minister, but he was already overburdened with many other duties. The next expedient was to create two Commissions, one concerned with economic development and the other with social welfare. These Commissions were intended to co-ordinate the projects within their respective spheres and put them before a more comprehensive Economic and Social Board on which most of the important ministries were represented. The creation of an Economic and Social Board was an explicit recognition of the principle that social reconstruction and economic development are inseparable. The Chairman of the Board was the Prime Minister; and the Board could therefore use his authority to keep a check on the implementation of plans. This arrangement, however, was too cumbersome, and the two Commissions are defunct, though the Board is still active. The most recent solution is to appoint leading members of the Cabinet as Deputy Prime Ministers with responsibility for the two main branches of planning, and the event may prove that this is the most satisfactory solution of the purely administrative problems of planning. Also a strong committee consisting of the Secretaries of the Ministries most intimately connected with planning has been appointed to supervise the progress achieved by the agencies charged with the implementation of the various projects.

(d) Parties and Pressure Groups. The present Government represents the Anti-Fascist People's Freedom League (APPFL). As already explained, this was created by the political genius of Aung San in May 1945 as a national organization comprising a loose coalition of numerous groups united only in their common opposition to foreign rule. This was both its strength and its weakness. To understand its character and constitutions, however, one must go further back and trace briefly the evolution of political parties in Burma.

The birth of modern nationalism in Burma may be dated from the foundation in 1906 of a Young Men's Buddhist Association (YMBA), inspired, as the

name implies, by the example of the Young Men's Christian Association and, like that, professedly religious rather than political. But, as Buddhism was the national religion, it was as much nationalist as religious, and from the first it had political implications. Its earlier activities were in the field of education. It found points of attack on the educational system in the predominance of Christian missionaries and in the superior advantages enjoyed by Eurasians; also it demanded educational reforms that would open up a wider field of employment for Burmans. A few Buddhist monks were among its earliest leaders and the Buddhist Religious Order, represented in every village, was a potential field for propaganda over the whole country. The rice-control policy of 1917-18, fixing a maximum but not a minimum price for paddy, stimulated widespread discontent among the peasantry and ensured a favourable reception for any movement in opposition to the government. Then a Director of Public Instruction (newly appointed from Madras) tried to improve educational efficiency by withdrawing government support from monastic and other village schools that did not attain his standard. In 1919 the vernacular schools receiving grants comprised 3228 monastic and 5269 lay schools; by 1921 there remained only 1,434 monastic and 2,599 lay schools. This gave a new stimulus to disaffection in the monastic order and in the villages. The same official was also largely responsible for the project of a university that Burmans regarded as meant to restrict rather than extend their opportunities. The outcome was a widespread school strike and the foundation of national schools in opposition to the official educational system. These developments increased the influence of the YMBA, and when the YMBA leaders rejected as inadequate political reforms propounded by the Government, they had the support of a movement extending throughout the whole country. In 1921 they founded the General Council of Burmese Associations, not Buddhist but Burmese, not religious but political. This remained an important factor in political evolution up to the time of the Japanese invasion.

Under the constitutional reforms of 1923, and again after the separation of Burma from India in 1937, communal representation hindered the attainment of effective power by any nationalist group. Consequently political rivalry was a struggle for position rather than for power, and the so-called parties were merely groups of much the same persons with kaleidoscopic changes of party names and leaders. Conditions however were changing. Disaffection among the cultivators, originating in the rice-control policy of 1917, became more acute through the transfer of some millions of acres of rice-lands to Indian money-lenders as a result of the depression of 1930. Dr. Ba Maw tried to take advantage of this and struck a new note with his sinye-tha (poor man) party, but his following consisted of politicians rather than of peasants and even among politicians he had only a small minority.

A group of younger men formed a new party with the style of thakin (master), a term previously reserved in common usage only for Europeans. They carried the sinye-tha policy from the platform to the people. In 1938 Thakin Mya founded the All-Burma Peasants' Organization (ABPO) and in 1940 U Ba Swe, the late Prime Minister, figured prominently in the All-Burma Trade Union Congress (ABTUC). Although the Thakins never held more than three seats in the legislature, they had a strong following in the country through these two organizations. To the same group belonged Aung San who, as already mentioned, obtained military training from the Japanese and rose to the command of the Burmese military forces. Another thakin composed a

a patriotic song, Do-Bama (We Burmans), and this was adopted as the style of a party organization which was led by the thakins but also including others. The amalgamation of the Do-Bama party with Dr. Ba Maw's SinYe tha group provided the framework of Dr. Ba Maw's National Political Organization. This was represented in every district, and the secretary of the district organization was usually a thakin, <sup>5/</sup> so that the organization became in effect an instrument of the thakin leaders.

Most of the nationalist groups had originally welcomed the Japanese as liberators, but the section that was inclined to communism took the side of the allies in sympathy with Russia, and opposed the Japanese from their first arrival. This section, with Than Tun as one of its chief leaders, organised the resistance against the Japanese, and, as opposition to the Japanese grew stronger, they rapidly increased in number and came to be known as the National Revolutionary Party (NRP). This party was foremost in obtaining recruits for the guerrillas and the Burmese army, and also helped in connection with the creation by Aung San of the coalition formed in August 1944, known originally as the Anti-fascist Organization (AFO) and from May 1945 as the AFPFL.

Certain features of the constitution and character of the AFPFL deserve close attention. First and most important it was a nation-wide organization with machinery extending over the whole country. Three other political organizations also covered the whole country: the All-Burma Peasants' Organization (ABPO), the All Burma Youth League (ABYL) and the All-Burma Trade Union Congress (ABTUC) though the last of these comprised only the workers in the few and scattered industrial concerns. These three organizations were affiliated to the AFPFL, and the local leaders were ordinarily members of the AFPFL and at the same time were also the local leaders of the AFPFL. Thus the AFPFL had almost sole command over the whole political organization of the country. The chief exception of political significance was the People's Volunteer Organization (PVO), which consisted largely of soldiers of the war-time forces who were excluded when the army was reorganised after the British re-occupation. This represented the national movement in its military aspect as the AFPFL did in its civil aspect, and Aung San was at the head of both. Other nation-wide organizations were the Buddhist religious order and the Burma Muslim Party. The former had no legal constitution under British rule but was in general sympathy with the AFPFL, and the latter, numerically insignificant, but important commercially, was affiliated to the AFPFL. Among the minority peoples, the Shans, Kachins, Karens, Kayahs and Chins, there were political organizations affiliated to the AFPFL and no other political organization except for a section of dissident Karens. In effect, the AFPFL was the only political organization, apart from the PVO, covering the whole of Burma.

The other notable feature of the AFPFL was that it did not profess any particular political ideology other than nationalism. Prior to the secession of the communists under Than Tun, political diversity, in its usual sense, was disregarded. Then, however, a socialist party was founded by other members who trusted Aung San as their leader, accepted his policy of obtaining independence by negotiation rather than by force, and preferred western democratic socialism to communism. Others, who mis-

5/ Thakin Nu, Burma under the Japanese, (Macmillan, New York, 1954), p. 43.

trusted socialism, or had more to lose under a socialist regime, began to draw apart in separate groups, but they were so few that they carried little weight. Capitalist interests hardly existed outside Arakan where some wealthy landlords had set up a bank. On the attainment of independence effective political power was in the hands of the AFPFL leaders (still comprising a communist minority) and the PVO, which (as the result of its origin in a communist-inspired resistance movement and the subsequent assassination of their real leader, Aung San) tended to favour the communists rather than the socialists. When the communists went underground, followed by a large section of the PVO, the AFPFL became more than ever a one-party government.

A single party system is often regarded as inconsistent with democracy. But a party constituted on the lines of the AFPFL would seem to represent the people more effectively in some ways than either of the two main parties in England. In England the party machine recommends candidates who may previously have been quite unknown to the local electorate and have no local ties with the constituency which they are supposed to represent; when elected they are required to vote in accordance with instructions from the party. They represent the party in the constituency rather than the constituency in parliament; there is a party government rather than popular government. But the Central Executive Council of the AFPFL is firmly rooted in local and functional realities. There is a socialist party to which most members of the Central Council belongs, yet they are in the Council, not as representatives of the socialist party, but as representatives of the several component groups, the Peasants' and Trade Union organizations, and other similar organizations, such as the Co-operative Organization, which have come into existence of late years. The Deputy Prime Minister, U Ba Swe, was until quite recently the Chairman of the local trade union organization; another of the Deputy Prime Ministers was Chairman of the Peasant's organization; another Deputy Prime Minister was the head of the Co-operative Movement, and another prominent member of the Council was the head of the Rangoon AFPFL. At District and Township Headquarters there are local AFPFL Councils, similarly representative of the local peasant, trade union and co-operative organizations. And the District and Township Councils are based on urban and rural ward and village councils, chosen from among the local inhabitants. The District AFPFL is not a mere electoral college, but each member can make a functional contribution to a general connexus of local interests. These local councils can represent their views to superior councils and, at each stage up to the Central Council, there is an opportunity for a free expression of opinion without the obligation to speak and vote in accordance with party policy that is necessary in Parliamentary debates, where a candid expression of opinion or an adverse vote may entail the fall of the government. If the Co-operative or Land Distribution or Welfare organization in any District is dissatisfied with the conduct of affairs by the District AFPFL, it can bring the matter to the notice of the Central Council through the member of the Central Council who represents their own particular institution. Thus the AFPFL is in a very real sense a democratic organization.

At the same time it is a very powerful organization. The fundamental basis of authority in the AFPFL is the national convention, but since the first All Burma AFPFL Convention held in 1947 there has not been another, and effective political power has rested with the Executive Committee of the Central AFPFL. The party now claims a million registered members.

Through the registered members it is represented not only on the specialised local organs but also in local government, the Village, Urban, Township and District Councils, where its representative can explain the AFPFL policy to other members who do not belong to the AFPFL. Also, through the local branches of its component units, it can watch over the conduct of administrative officials. One main function of the local units is to recruit support for the AFPFL. That they do not always succeed in this was apparent in the recent elections when the AFPFL lost seats that ought to have been safe. In some instances, where the failure seemed due to the misconduct or bad repute of local members of the AFPFL, an enquiry was held and the local councils were re-constituted. And at any time a member of a local AFPFL who cannot give a satisfactory explanation of a complaint against him is liable to be disciplined or even expelled from the party.

The actual functioning of the organization depends of necessity in the last resort upon the human element. The members of the District and Township AFPFL Councils have great power which they can easily abuse and with great temptation to abuse it; the Prime Minister, U Nu, justified his resignation on the ground that he wished to devote his public activities entirely to the task of purging the AFPFL of corrupt or otherwise undesirable elements. Another danger is that a member of the Central Council, who is at the same time Chairman of one of the functional organizations such as the ABPO, may tend to favour his particular organization to the detriment of the public interest, and the AFPFL recently decided that no member of the Central Council may be the chairman of any of the component units; accordingly U Ba Swe resigned his office as Chairman of the Trade Union Congress, Burma, and other members of the Council have followed his example. On rather similar grounds the Council has decided that it can no longer recognize as an affiliated group the Burma Muslim Association which was one of the original component units. It is in the Central Council of the AFPFL that political power is concentrated; all important questions of policy are settled in it before the Government decides on the line which it will take, and the Prime Minister recently explained at a Press Conference that he could not re-organize his Cabinet without reference to the AFPFL. In constitutional theory the Government is responsible to the Chamber of Deputies, but over the members of the Chamber it can exercise the strict control of party discipline; in practice it is responsible to the AFPFL.

The Chief strength of the AFPFL derives from the fact that it inherited and has consolidated the political organization of the resistance movement. Some would-be national leaders, such as Dr. Ba Maw, were reluctant to join the AFPFL or any other organization in any position except the highest. Some held aloof because of a private grudge against the AFPFL or some of its more prominent members. Others feared that the AFPFL would not grant them the recognition which they regarded as due to their abilities. A few landlords and others feared the effect of socialist legislation on their pockets. Such men have broken away from the main nationalist body to form splinter groups which they dignify with the name of parties. Similarly dissentient would-be leaders in the minor states can offer little more than individual opposition to the party which is allied with the AFPFL. Only Than Tun was able to collect a following of any considerable number, and almost the only effectively organized opposition is controlled by the communists and their fellow travellers who did not join Than Tun in open rebellion. The strength of the AFPFL's con-

tinuing hold over the country lies very largely in the fact that its policy meets with general approval, but very largely, also in the absence of organized opposition. For the general elections of 1956 all these small groups came together in an All Party Opposition Alliance comprising five groups opposed to any form of socialism and five groups with communist sympathies; the former were loosely organized in the Burma National Bloc (BNB) under the nominal direction of Dr. Ba Maw, and the latter, rather more cohesively in the National United Front (NUF). It was, however, only the pro-communist section of the NUF which made any serious attempt to organize the opposition forces in the constituencies. The original compact to distribute the constituencies equally among the allied sections did not even last until the holding of the elections, and in the result the opposition won 53 seats of which 46 went to the NUF. Both blocks unite in Parliament in opposition to the Government, but, even if they were strong enough to defeat it, they could not form an alternative government because the two blocks would immediately fall apart. After the elections the NUF continued the attempt to extend its influence in the constituencies and in August it held an All Burma NUF Conference at which it claimed an attendance of 440 delegates from 30 districts.

The absence of an organization capable of taking over the government is not without countervailing advantages. The test of the present Constitution on the English parliamentary model will come when there is an opposition strong enough to defeat the party in power but not sufficiently united to provide an effective substitute. This would tend to revive the corruption, intrigue and impotence characteristic of pre-war legislatures. It would seem then, that under present conditions in Burma, the single party government of the AFPFL not only provides a more representative and democratic type of government than two rival political machines, but is also as strong a government as in the present circumstances the country is able to produce.

Apart from the distinctively political parties and groups there are other groups which can and do exercise pressure on the Government; although non-political they carry weight in politics. Some of these, such as the All Burma Peasants' Organization, the Trade Union Congress, Burma, and the Co-operative Union are closely allied with the Government and can exercise pressure from within; others have no political affiliation, but their political influence, exercised from outside the government, must be taken into account. The All-Burma Peasants' Organization was the source from which the thakins originally derived their strength, and it is still probably the chief mainstay of the AFPFL. The conditions of rural life make it difficult to create any effective rival organization among the peasantry. The organization of industrial labour for political or economic ends is much easier. It was indeed as a political instrument that the All Burma Trade Union Congress (ABTUC) was originally founded in 1940. It was reconstructed in May 1945 under a communist leader, and played a useful part in organizing resistance against British rule. The socialist group however soon became suspicious of its political objectives and, apparently about November of the same year, created a separate organization, the Trade Union Congress, Burma (TUCB), and the All Burma TUC became merely the Burma Trade Union Congress (BTUC). Until the AFPFL party obtained admission to the Governor's Council in October, 1946, the two organizations worked together in a loose alliance, but when the BTUC embarrassed Aung San's Government with the threat of a general strike, he

broke the strike and the influence of the BTUC. In March, 1948, the BTUC went underground with the Communists, leaving the direction of the legal labour movement to TUCB. The latter however included members with pro-communist leanings, and among these were the President and Vice-President.

Growing tension led to the temporary suppression of the TUCB, and, soon after it had been purged and reconstituted under new leaders, the former leaders with communist sympathies resigned from the Socialist Party and formed the Burma Workers and Peasants Party (BWPP) which now forms the backbone of the NUF, though it has little numerical support from industrial labour and very much less from among the peasantry. Yet industrial labour, with little regard for party affiliations, can and does continue to exercise pressure on the Government. It does not seem strong enough to organize a widespread strike, but it can attract followers for a procession round the Secretariat shouting for more pay and less work, a slogan that would meet with more sympathy from the International Labour Office than from a Communist Government. But it fosters discontent and provides copy for the Press. In general, however, the Government, through the affiliated TUCB, seems to have handled the labour problem tactfully and without panic concessions to pressure.

Another legacy from the Ba Maw Government was the Youth Movement, and this also has made itself felt in politics under rival leaders, though both leaders were adherents of AFPFL. Recently however there has been a communist infiltration into the field of education. As in the Labour movement, the Government has tried to defeat communist influence indirectly; it has formed its own group among the students under a party name that does not effectively disguise its relations with the Government. With the students, however, the Government has been less successful than with labour, and in the recent university elections the communist group, demanding longer holidays and less rigid examinations, won an easy victory; this does not imply that all the students who want longer holidays and easier tests are communists, and almost all of them would certainly re-act much more violently against communist discipline. But, here again, the students who follow the communist lead get their cause (and their names) advertised in the newspapers, and this exposes the weakness of the Government, while making it still weaker.

The Government is also exposed to pressure from another angle by the Chambers of Commerce. Each community has its own Chamber of Commerce, and all the Chambers are in general opposed to socialism. The Burmese Chamber of Commerce is the one with the widest popular appeal. This is almost a creation of the new Government, as it barely existed before the war. All the Chambers put pressure on the Government in connection with the regulation of imports, and the Burmese Chamber stands apart from the other only in claiming that, so far as import licenses are granted, they should be given to Burma nationals rather than to foreigners, and to indigenous Burman citizens rather than to citizens of Indian, Chinese or other foreign origin. As the Burmese Chamber represents trade rather than industry, it tends to oppose restrictions on trade even if they are intended to enhance production in Burma. In numbers the mercantile and industrial classes are insignificant, and the Government derives its main support from the peasantry. But politically, the mercantile and industrial communities are important because it is only with their co-operation that the Government can give effect to its economic policy. Thus they are in a position

to exercise pressure on the Government and the Government has to conciliate them.

It is the strength of the Muslim community in commerce that gives them political importance. The Burma Muslim Congress, as already mentioned, assisted in the creation of AFPFL. The AFPFL leaders, however, regarded a group based on religion as a dangerous element in politics. They ruled accordingly that the Burma Muslim Congress could no longer be accepted as one of the affiliated units, and gave the Congress the choice between reconstitution on a non-religious basis or resignation from the AFPFL. The Congress has keenly opposed this decision but without effect.

Potentially, however, the group most able to put pressure on the Government is the Buddhist clergy. So firm is their hold over the people that even the strongest Government could not afford to alienate the Buddhist monastic order with impunity. Under the Constitution they are debarred from political activities, even from the exercise of the franchise, but, if they were to take sides in an election, their influence would carry much weight in determining the result. The tradition of the order is against participation in political activities, and the man who enters it professedly cuts himself off from the world in order to gain his own salvation; yet, under British rule, some members of the order were prominent as leaders of the nationalists. The Constitution "recognizes the special position of Buddhism as the faith professed by the great majority of the citizens of the Union" (section 31), and the Government has passed a series of enactments which should conciliate the order and reinforce clerical discipline. The Ecclesiastical Courts Act provides for the establishment of ecclesiastical courts for the decision of disputes in religious matters and for the expulsion of immoral or heretical monks. The Pali University Act establishes a Pali College which is being used as an institute for the promotion of Buddhist studies. And the Sasana (Religious) Council Act created an organization with power to act on behalf of the Government in all religious matters. These measures, and other tokens of respect for the Buddhist religion and clergy, should attract the sympathy and moral support of the religious order. Yet the Government still has to proceed warily in regard to any measure which may possibly offend clerical susceptibilities. It appears that there is a close, though unofficial, alliance between some government leaders and a strong group among the younger members of the order. On the other hand one reads not infrequently of the presence of Buddhist clergy at demonstrations organized by communists or by groups with communist sympathies.

#### 4. The Administrative Machinery.

The machinery for giving effect to the policy of the Government consists of the Secretariat, the Services, and various more or less autonomous agencies known as Corporations, Boards or Councils.

(a) The Secretariat. In each Ministry, as in the later days of British rule, there is a high official who has the title of Secretary to the Union Government in the Ministry to which he is assigned and who, in all that concerns his Ministry, is authorized to sign orders and other documents on behalf of the Government. If a Minister holds two or more portfolios there is a Secretary to Government for each; for instance, in the recent Government one member of the Government held charge of the Ministries of National

Planning, Religious Affairs and Union Culture, and for each of these three distinct functions he had a separate Secretary to Government with a subordinate staff. From British times the Secretaries have been known collectively as the Secretariat. This name is also given to the building in which most of them have their offices. Under British rule it provided ample accommodation for all the Secretaries; but the Foreign Office, newly constituted on the attainment of independence, has always been housed separately, and growing pressure on the space has made it necessary to find room elsewhere for other ministries. The Secretary for Home Affairs holds a primacy as Chief Secretary, and the Secretaries for Foreign Affairs and for Defence are distinguished as Permanent Secretaries, presumably because they are intended to specialise permanently in their own subjects; in the past, other secretaries were frequently transferred at short intervals from one Ministry to another but now these frequent transfers are unusual. Formerly, under executive rule when there were as yet no ministries, the work at the headquarters of the Government was distributed among various departments, and this term is still sometimes applied to the whole staff of a ministry. But the term "department" is very confusing, as it is also applied to integral sections of a ministry, and to the executive services which give effect to the orders emanating from the ministry. It is convenient to distinguish these various grades in the official hierarchy by referring to an integral section within a ministry as a "department", and to an executive agency outside the ministry as a "service." Thus, in the Ministry of Agriculture and Forests there are separate departments dealing respectively with Agriculture, Veterinary Affairs, Forestry, Irrigation, and Salt, and for each of these departments at headquarters there are one or more agencies organized territorially outside the ministry, such as the Agricultural Service, the Forest Service and so on.

The Secretary to Government in any Ministry is the official to whom the Minister chiefly looks for advice on all matters that come within his province, for assistance in framing his policy in correct official forms, and for the efficient administration of his Ministry. The Secretary is usually called in to the Cabinet when matters concerning his Ministry are under discussion. In many Ministries there are Additional Secretaries to whom specific responsibilities and departments are assigned; they draw the same salary as a Secretary and, within the limits of their assignment, they perform the same functions. Next below these come the Deputy Secretaries, who may be allotted special functions or may occupy the position of a staff officer or personal assistant to the Secretary or to an Additional Secretary. Below the Deputy Secretary comes the Assistant Secretary, who is usually responsible for the details of administrative routine and for seeing that cases put up to his superiors are complete with all the references necessary for convenience in perusal; he may be expected to make an abstract of the proceedings with such observations as he may think helpful.

All these officers are drawn from the general administrative Civil Service in the districts, to which at any time they may revert. Formerly it was a tradition that no one, except possibly the Secretary, should remain more than three years in the Secretariat, so that he should not lose touch with affairs in the interior; but an officer who displayed a special gift for office work was apt to spend most of his service in the Secretariat until by seniority he became eligible for one of the highest posts in the

administrative service. Now, owing to the scarcity of officials with the educational and other qualifications needed for work in the Secretariat, the former tradition of reverting to district work seems obsolescent. Also, as mentioned above, there is a growing tendency for officers to remain in the same Ministry.

Below the Assistant Secretary there is the ministerial or clerical service. The work of the office is distributed among Branches, each branch dealing with its own particular sections. For each Branch there is a Branch Superintendent with as many clerks of the upper and lower grades as may be thought necessary. The number of branches in a ministry ranges from about five to fifteen, and the number of clerks from about 50 to, perhaps, 150. If there are numerous branches in a Ministry there will be a Chief Superintendent who ranks between the Assistant Secretary and the Branch Superintendents. The Superintendents are promoted from the clerical staff, but the Chief Superintendent, and other Superintendents of sufficient standing, have the status of a "gazetted officer," signifying that they have an honorary position among the superior officers whose appointments are notified in the official Gazette. Under the clerical staff there are the messengers (who in Burma do much of the work that in other lands is done by mail or telephone) and various other menials.

The composition and procedure of the Secretariat have long been criticised and were objects of very unfavourable comment by the strong Fiscal Committee appointed to re-organise the finances of Burma on its separation from India in 1937. Its report, dated 1938, remarks that "the Secretaries are in no sense specialists in the work of the Departments which they are put in charge. This system may provide the Forest, Education, Judicial and Home Departments with suitable Secretaries, but is not calculated to supply the Finance, Revenue and Commerce Departments with officers possessing the knowledge and experience required by the Secretaries in these Departments." The procedure was "complicated and unreal," and entailed "voluminous and often unnecessary noting on the files," compelling high administrative officers to spend much of their time on unimportant matters of routine.

In independent Burma the zeal of the Government for directing economic enterprise in the interest of the nation and for promoting social and individual welfare demanded of Secretariat officials a change of outlook and a more positive conception of their functions; the multiplication of new services intensified the need for inter-departmental co-ordination, and involved the recruitment of a greatly enlarged Secretariat staff to cope with the multiplication of activities. Yet at the same time the staff was depleted by the departure of almost all the former high officials, and those who remained or took their place had to pay more attention than before to administrative routine because the new recruits in the lower ranks had not yet acquired the necessary experience to dispose of everyday business. Meanwhile the Manual of Secretariat Procedure had been revised in consequence of the strictures of the Fiscal Committee, but the Pay Commission reported in 1947 that matters were very much the same, with much unnecessary work and "lengthy noting at each stage from the time it reaches the office until orders are actually passed." The Administration Re-organization Committee in its Report of 1951 drew attention to these defects and suggested that a Committee of Secretariat Officials should be constituted with a view to devising further simplification.

Since then the Government has had the assistance of three successive experts on public administration. The first of these, who arrived in 1952, was charged with making an administrative survey of the Departments of Government, their problems of reorganization, co-ordination and personnel, and with recommending measures for the better definition of responsibility, the elimination of wasted effort and the improvement of administrative efficiency. One of the points to which he drew attention was the undue rigidity of financial control, of which he gives selected illustrations, and which he characterised as "in part relics of a colonial system and not in accordance with modern practice." He noted also that, in dealing with correspondence, each document usually had to pass through thirty-nine steps from the time it reached the office until a subordinate clerk finally "puts it away or places it in the pending file or the pile of pending files." He made numerous suggestions for improving the current Secretariat procedure and in some cases supervised their implementation, but he advised that three more experts were required to deal with special problems. A second expert was appointed in 1954 with the particular object of exploring how best the United Nations could help the Government with technical assistance in public administration. He remarked that political independence had intensified the need for changes in administration to keep pace with recent developments, but recognized that innovations must be gradual and in harmony with the existing good traditions of public service and political impartiality. He emphasized the need for a "changed outlook" among Secretariat officials and for a "managerial" rather than a "secretarial" approach to problems; the administrators should be educated as "social engineers," and suitable provision should be made for training them as such. He again recommended the appointment of three more experts from the United Nations, and in other respects also his recommendations were much along the lines of his predecessor. In 1955 a third expert was appointed, mainly to give advice on reorganisation and training. These various reports have received close attention, one notable departure being the establishment of in-service classes in the principles and technique of public administration. But "innovation must be gradual," and there has not yet been time to judge how far the various Ministries have been able to profit from the advice given by the experts.

(b) The Executive Services. The policy of government, as formulated in the legislature and worked out in the Secretariat, takes effect in general through a chain of executive services distributed throughout the country. The administrative machinery that evolved gradually under British rule has already been described. There was a graded territorial organization comprising Commissioners, Deputy Commissioners, Subdivisional Officers and Township Officers in charge respectively of Division, Districts, Subdivisions and Townships; each of these officials was responsible for general administration within the area of his jurisdiction and was the local representative of the central government. Along these were numerous departmental officials performing special functions, whose sphere of work might or might not coincide with the units of general administration. Ordinarily there was a representative at district headquarters of each specialist service which came at all into contact with the local people. The Deputy Commissioner, as the local representative of the Government, was assumed to exercise a general supervision over the work of the specialist officers, and they were expected to keep in touch with him, but they were responsible directly to their own departmental superior

and not to the Deputy Commissioner. Thus any formal coordination between the activities of various services was possible only at the headquarters of the Government. The specialist officers knew their own special job but, in most services, they knew little of the people, and they had no official concern with the affairs of other specialist services in the same area. Hence there was a strong tendency to departmentalism. Both the lack of co-ordination and departmentalism were aggravated by the frequent transfer of all these officials, and this was a great obstacle to efficiency.

The primary function of the Deputy Commissioner and of all his subordinates in the administrative service was the maintenance of law and order; although he was nominally responsible for promoting the welfare of the district he had little time to pay much attention to this branch of his duties. Much of his time was occupied with correspondence. When the Government of India, or the Secretary of State, or a member of the British Parliament or someone in the League of Nations or in any of its organizations wanted information about anything which might implicate Burma, a reference came to the Government of Burma; in such cases, and also if the Burma Government wanted information, it was a matter of routine for the Secretariat to issue circular letters to all Deputy Commissioners to furnish the information, although in most cases they knew nothing about the matter and had no means of obtaining the information which, if available at all, was probably on record in the appropriate department of the Secretariat. And even so far as the Deputy Commissioner had sufficient interest and time for the promotion of welfare in his district, he rarely stayed in one district long enough to find out what was needed and still less how to do it.

Most projects affecting welfare depend in large measure on the interest of the people whose welfare they will affect. Under British rule it seemed at one time that the co-operative movement might provide machinery for the autonomous promotion of local welfare, but this idea was promptly squashed in an announcement by the Lieutenant-Governor at an early Co-operative Conference that village co-operative societies must not be allowed to encroach on the authority which the village headman exercised as the agent of the government. Soon afterwards, however, the new spirit found expression in the formation of Village Associations in opposition to the village headman and the government. Similarly, it was in order to preserve the executive authority of the village headman that in 1923 the village was rejected as the primary unit of representative government, with the result that parliamentary representation undermined the influence of the village headman without creating any local authority to replace it.

These were the main features of the administrative machinery when it was taken over by the new Government, which was immediately faced with the problems of fostering co-ordination, abolishing departmentalism and promoting continuity by reducing the frequency of transfers. These obstacles to the promotion of welfare were the more formidable because the new government aspired to much greater activity in the promotion of welfare. One result was to multiply the demands on local officials for impossible and superfluous reports and leave them with even less time for anything but correspondence. Their situation was affected also by other changes incidental on the transfer of power. Under a Constitution which

allowed frequent changes in the government from one political party to another, there was a danger of the growth of a "spoils system," with changes in the personnel of the civil services following the changes in the government. An attempt had been made to guard against this danger in the Constitution of 1937 by the appointment of a Public Service Commission but this had proved ineffective. The new Constitution of Independent Burma accordingly provided (section 221) that the Parliament should "by law, set up a Public Service Commission to assist the Union Government in matters relating to recruitment to the civil services of the Union, and to advise in disciplinary measures affecting the services." A Public Service Commission has been created in accordance with this provision and seems to be functioning satisfactorily, although the United Nations expert who made a survey of public administration in Burma in 1952-53 recommended that its sphere should be extended to include various miscellaneous specialist and clerical establishments.

It is however in the daily routine of district officers that the consequence of party government are most clearly apparent. Under the former government they had to keep one eye on the local member of the Legislative Council, but he was often merely a subordinate agent, as it were a non-commissioned officer, in the conflict of rival groups for power, and might have little or no interest in local affairs. Under the new regime in every district and township there was a representative of the AFPFL, who might or might not be a member of the Parliament but who was a local man of great local influence and in close contact with the heads of the party. Local officials had to keep both eyes on the local agents of the AFPFL. There had always been an undercurrent of mutual suspicion between the officials who were servants of the Government and the politicians who claimed to be servants of the people. The change of relations between them brought this to the surface. Formerly the politicians, not without reason, charged subordinate officials with taking illicit perquisites. One feature of the new system was a genuine drive among officials for cleansing the administration of corruption; the clerks in local offices joined the Ministerial Servants' Union and took action against pickings; but they retorted the charge of taking illicit perquisites on party members who, with greater influence, were in a better position to extort them. Thus, in various respects the new situation of government officials was unhappy.

But with few exceptions they were strong supporters of the new regime. In some ways it strengthened their position, for, with the depletion of the specialist services, district officers had to take on functions which formerly had been assigned to specialists. Also, the British Government, on its return from exile, had suspended the machinery for local Government and transferred to local officials all the functions formerly imposed on District Councils and Municipal Committees, so that, as in the earlier days of British rule, the local officials became the sole authority in local matters. They had moreover one further advantage over the local party agents; they were the only people with administrative experience and they alone knew how to get things done, how to set about obtaining funds from the Government for local needs, and how to comply with Accounts Department regulations in spending them. Then, with the rapid emergence of insurrection and the concomitant multiplication of violent crime, it was on district officers that the Government depended for the restoration of law and order, and, in the general confusion, they were left largely to their own resources with new opportunities for displaying individual initiative.

The steel frame of centralised territorial administration built up under British rule was found useful by the Japanese as an instrument for the restoration and maintenance of order. Since the attainment of independence it has played a major part in holding the country together against the forces of disruption, and the new Government which, on the attainment of power, openly professed mistrust of the territorial officials, inheriting the traditions of British rule, has learned by experience to appreciate their importance and the value of their loyal services.

Such was the general environment in which the Government drew up its plans for solving its administrative problems. At first its attention was mainly directed towards promoting the co-operative movement. Directives in the Constitution stressed the importance of "peoples' co-operative organizations" in economic development, in the exploitation of natural resources and in undertakings of public utility. This found early expression in the transformation of the co-operative service. Formerly the co-operative service had been almost exclusively concerned with the provision of agricultural credit. In 1948 a committee, formed to deal with this problem, recommended the creation of a State Agricultural Bank. In its report the Committee pointed out that a co-operative society was a voluntary organization of which the members pledged their united credit and therefore would not admit members whose credit was doubtful, whereas in Burma all cultivators were in need of funds and especially those whose credit was most doubtful, so that the problem of indebtedness could not be solved on co-operative lines; it recommended that the funds available for loans to cultivators through the Bank should be open to all cultivators with special machinery for the recovery of debts. This proposal seemed to threaten the organization for co-operative credit with extinction and at first encountered some resistance, but at the same time the co-operative organization was extending the scope of its activities to consumers', producers' and marketing societies, and these now play an important part in the machinery for promoting welfare.

Another innovation devised by the Prime Minister in May, 1948, was a project for a Rehabilitation Brigade which should relieve unemployment and help to meet the serious shortage of skilled labour, and which would be employed mainly on the provision of local amenities. Plans were also drawn up for the more effective promotion of welfare through autonomous local bodies. All these various innovations were directed towards transforming the relations of the executive services with the central government on the one hand and with the general public on the other. The insurrections checked the implementation of these plans, but in 1951 tranquility was sufficiently restored to permit the holding of a general election, and shortly afterwards the Prime Minister set to work on plans for a National Welfare Conference (the Pyidawtha Conference) which should inaugurate closer relations between the public services and the people.

This Conference (held in August, 1952) approved plans for the devolution of powers, for the democratization of local administration, for agricultural and rural development, for economic development, for the nationalization of the land, for under-developed (i.e. the frontier) areas, for housing, transport and communications, for education, and for medical aid and public health. All these plans, and especially those relating to the devolution of powers and democratization of local administration, had a direct bearing on the organization and functions of the executive services.

The plan for local administration will be described in the appropriate place; here it must suffice to notice the Phydawtha plan for the devolution of powers. In each township there was to be set up a Township Welfare Committee with the Township Officer as Chairman and with members comprising representatives of the specialist services - police, public works, co-operative, agriculture, veterinary, land records, education, medical and fire service together with four members nominated by the Central AFPFL to represent the public, so far, at least as the AFPFL could be identified with the general public. Above these Township Welfare Committees was a District Welfare Committee with the Deputy Commissioner as Chairman and representatives of the foregoing and other services at the district level, together with a representative for each Township nominated by the Central Council of the AFPFL. Above the District Council there was a Divisional Welfare Committee similarly constituted, but with the Divisional Commissioner as Chairman and with one representative of each District nominated by the Central AFPFL. Each Council was to draw up its own plans with estimates of the expenditure involved. The Township plans would be incorporated in the District plans and the District plans in the Divisional Plan, which would come before the Cabinet for consideration and inclusion in the national budget to be laid before Parliament. Funds would then be allotted to the Divisional Committees in the form of discretionary grants which they could expend without further reference to the Government or further sanction by the Finance Ministry. In the implementation of the plans local councils were required to contribute either in cash, kind or labour; the implementation of the works and the accounting for expenditure were to be supervised by the Divisional Committee, but representatives of the heads of departments in the Central Government would have the right to inspect and advise on works in progress. In the first instance K.50,000 was allotted as a discretionary grant to each Township Welfare Committee and additional expenditure was authorised on specific approved projects.

On this Pyidawtha plan all the departmental officers at each level were brought together with a view to facilitating co-ordination and avoiding departmentalism, while the representation of the public through the nominated local representatives was a guarantee of continuity in the execution of the plans in the drafting of which they had participated. The arrangement was open to the criticism that it was the AFPFL and not the general public which was represented on the committee, but membership of the party was open to all and the representatives of the party were probably in most cases the best and most influential members of the local public. The intention was however that these Welfare Committees should in due course be replaced by local bodies created under the new arrangements for local administration. Except in so far as the executive services by reason of the nature of their functions came into intimate contact with the people, the specialist services continued on much the same lines as under British rule except for the depletion through the loss of foreign officials. These, the new government had to replace as best it could. To some extent it was compelled to have recourse to the engagement of foreigners on temporary contracts and 200 medical men were brought in from India. But great attention was paid to the training of officers who would eventually render Burma independent of foreign help in all its regular services. Arrangements were also made for training officials in their new functions by the institution of courses and classes in public administration.

(c) Autonomous Agencies. In Burma the government participates in many activities that in countries with a different economic background are left to private individuals. This is due partly to the post-war economic situation, and partly to the pre-war social and economic background. A government can operate in either of two ways; it can take action departmentally through its own officials, or it can entrust the matter to an autonomous agency, that is, to an agency which has autonomous powers within the limits sanctioned by the authority of which it is an agent. Before the war, the forests were worked to some extent, and at times to a very considerable extent, by government officials, but the State Railway was managed by an autonomous agency, the State Railway Board. Except for those functions which are almost obligatory for any government, the present government has preferred on the whole to act through autonomous agencies rather than departmentally.

Before the war modern commerce and industry in Burma were wholly foreign and practically all the capital assets of the country except the land, and also much of the land, belonged to foreigners. As a result of the war almost all the capital assets were destroyed, and even much of the land needed heavy capital expenditure for reclamation. On the return of the British Government one of the most urgent problems was economic reconstruction. But the capital assets destroyed by the war had been built up out of annual profits; the new capital now required for reconstruction would have to be raised in the open market. The first which had formerly controlled the rice and timber industries and inland water transport would not return unless the Government would provide most of the requisite capital and bear the risk of losing it. But the Government could not put up the capital without reserving some measure of control. Thus the British Government, with no socialist bias, was compelled to enter on various economic activities. It devised projects in which the State was associated with pre-war capitalist firms in order to nurse them until they could see the way to making a satisfactory profit without government help or interference. State intervention was regarded as a temporary measure with the object of repairing the pre-war economic structure, but in the post-war situation it was recognized as indispensable.

But Burmans had no desire to restore the pre-war economic fabric. Under the pre-war system of free economic enterprise they had been unable to obtain a footing in industry or commerce and had lost their richest land to foreign money-lenders. By way of reaction against pre-war conditions they favoured state ownership and control, and called themselves socialists. This was not merely an ideological conception; it had a firm basis in economic realities. There were no Burman capitalists; only by combination could they hope to hold their own against foreign capitalists, and it was only through the State that they could combine effectively. Socialist theory may have inclined them to push control further than the circumstances necessitated, but the economic activities of the British Government seemed to justify their belief in socialism; also, what is more important, it provided them with a model for autonomous agencies on socialist lines. On attaining independence they transformed the agricultural project into a State Agriculture Marketing Board and shortly afterwards created similar Boards for the timber industry and the inland water transport.

At the same time the Government was extending its activities into new fields through the National Planning Board and, as each new enterprise was

taken up, a new Board was formed to manage it. When the number of Boards became inconveniently numerous the Government decided to group allied projects together into comprehensive Corporations. It seemed also that for certain aspects of the promotion of social welfare similar autonomous agencies were preferable to departmental management. In other matters participation with pre-war companies in "joint ventures" was found expedient, and the idea of a joint venture was subsequently extended to commercial enterprises in which the State was associated with Burma nationals. These various activities required an appropriate financial apparatus and the Government accordingly founded State banks to provide the necessary funds. Thus, in the course of the few years since the attainment of independence there has rapidly evolved an elaborate complex of corporations, boards, councils, joint ventures and banking institutions in which the Government is directly interested. The more important of these are classified under their respective heads in the following list:

Corporations.

Agricultural and Rural Development Corporation  
Commerce Development Corporation  
Industrial Development Corporation  
Mineral Resources Corporation

Economic Enterprises.

a. Communications

Inland Water Transport Board  
Union of Burma Airways Board  
Union of Burma Railway Board  
Union of Burma Shipping Board  
Board of Management for the Port of Rangoon  
Burma Stevedoring Board

b. Commerce and Industry

Civil Supplies Management Board  
Government Spinning and Weaving Factory Board  
Government Tile Factory Board  
Paper Factory and Chemical Industries Board  
Special Project Implementation Board  
State Agricultural Marketing Board  
State Timber Board  
Union of Burma Purchase Board

c. Miscellaneous

Burma Research Board  
Electricity Supply Board  
National Housing & Town and Country Development Board  
State Pawnshop Management Board  
Union of Burma Insurance Board

(For each of these economic enterprises except the State Agricultural Marketing Board, separate estimates of receipts and expenditure were appended as Annexure 2 to the Union Budget for 1955-56.)

Social Welfare Institutions.

Burma Translation Society  
Cultural Council  
Mass Education Council

National Co-operative Council  
National Fitness Board  
Sanitation Board  
Social Services Board  
Social Services Council  
Tourist Traffic Advisory Board

Joint Ventures: For Production.

Burma Corporation (1951) Ltd.  
Burma Oil Company (1954) Ltd.  
Anglo-Burma Tin Co.  
Burma Pharmaceutical Factory

Joint Ventures: National.

Raw Materials and Machinery  
Textiles  
Hardware  
Provisions  
Tyres and Tubes

Banks.

Union of Burma Bank  
State Agricultural Bank  
Union of Burma Commercial Bank  
State Co-operative Bank

This list serves to illustrate the wide and varied range of Government activities in regard to economic enterprise and social welfare. It could be expanded by the inclusion of similar Boards subordinate to the large Corporations, and in other respects it is not exhaustive.

All these institutions, apart from the Joint Ventures and the Banks, have certain common features. The Parliament annually, so far as necessary, votes them funds for capital and working expenses and in general each institution has its own account in a bank nominated by the Government. The main reason for working through an autonomous agency rather than departmentally is to exempt the institutions from unnecessary restrictions of departmental routine and to allow them to conduct their affairs efficiently on the same lines as private enterprise. But their accounts must be maintained in a form approved by the Accountant-General who also audits the annual statement of accounts, and this statement together with an annual progress report must be submitted to Parliament before the next year's allotment is sanctioned. Although the statutes and orders establishing the institutions purport to give them a free hand, the rules, regulations and by-laws governing their procedure are largely modelled on departmental regulations and are little less restrictive. And members of the Government and officials figure prominently on most of the Boards. So far as regards economic enterprises, the profits, if any, are at the disposal of the Government, and the responsibility for their success or failure rests ultimately with the Government, which will take the credit for their success and will be exposed to criticism if they are unsuccessful. Thus the complex of autonomous agencies is a very important feature in the structure of government.

The large Corporations are much more than mere aggregates of subordinate Boards; they manage some projects directly, and they engage in research and make advances to private enterprise. The largest is the Agricultural and Rural Development Corporation of which the budget for 1955-56 included 30 separate projects relating to dairy farming, field crops, forestry and fisheries. The Board of Directors consists of the Deputy Prime Minister for Economic Affairs as Chairman, with the Deputy Prime Minister for Social Affairs and the Minister for Agriculture and Forests as the two Vice-Chairmen and, as ordinary members, three other Ministers for Land Nationalization, Trade Development, and Co-operatives; four Secretaries to Government, for Agriculture and Forests, Land Nationalization, Co-operatives and Industry; four high departmental officials, the Financial Commissioner for Agriculture, the Chief Conservator of Forests, the Chief Engineer for Irrigation, and the Director of Veterinary Affairs, while another official serves both as member of the Board and as its Chief Executive Officer.

The Mineral Resources Development Corporation manages coal, copper, iron and zinc mines, with other smaller projects. The Act under which it is constituted prescribes that four members of the Board shall have a special knowledge of industry, the marketing of minerals, finance, economics or of industrial direction or management. In practice it has been found necessary to recruit government officials rather than men with practical experience of mining. The Board consists of the Minister for Mines as Chairman, with three Ministers, for Finance, Industry and Labour, three Secretaries to Government, the Financial Commissioner for Commerce, the two Chairmen of the Union Bank and of the State Commercial Bank and another official as Chief Executive Officer.

The Industrial Development Corporation is similarly constituted. Subordinate Boards include the Cement Factory Board, the State Brewery and Distillery Management Board, the Tea Project Board, the Engineering Industry Project Board, the Sericulture Project Implementation Board, and the Sugar Factory Board, and it has also set up a Steel Rolling Mill, a Jute Bag and Twine Mill, and other projects, while it supervises, or is closely associated with, an Atomic Energy Centre and various research institutes.

The Commerce Development Corporation, the youngest of the four is managed by a Board consisting of the Minister for Trade Development as Chairman; two Ministers for Finance and Revenue, and for Industries; the Secretary to the Ministry for Trade Development, the two Chairmen of the Union Bank and of the State Commercial Bank, and three officials, the Registrar of Co-operative Societies, the Commissioner of Civil Supplies, and the Director of Industries, with another official as Deputy Director General and Secretary to the Board. The main body has set up a subsidiary, the Rubber Export and Development Corporation, including some members of the parent Board, the Parliamentary Secretary to the Ministry of Trade Development and two non-officials with experience in the rubber industry.

Obviously all these Corporations are under very close Government control and are in effect government concerns. In many of their activities the Directors are assisted by foreign experts as advisers, but the provision of the necessary personnel for management, administration and operation puts a severe strain on the very meagre manpower resources

of the country and, as the ministers, secretaries and officials must also carry on their usual departmental activities, they cannot easily find time to discharge their responsibilities in connection with the Corporations, though in many cases there is statutory provision for the delegation of these to representatives.

The smaller Boards are constituted on the same lines and differ chiefly in being concerned only with a single enterprise. Thus the Tile Factory Board, constituted in 1953 under the Ministry of Housing and Labour, but transferred in August 1956 to the Ministry of Public Works and Housing includes the appropriate Minister as Chairman, three Secretaries, for Public Works, Industry, and Finance and Revenue, the Chief Engineer of the National Town and Country Development Board and the Director of Industry; it also includes two non-officials, one a retired Civil Servant and a representative of the Trade Union Congress, Burma. At one time it was a practice to include representatives of the employees; thus the Inland Water Transport Board as established in 1949 included, together with the official members, four members to represent the general public and four to represent the Inland Water Transport Employees Union. Similarly the Railway Board included members of the Railway Workers' Union. There seems however to have been a reaction against the representation of employees on the Boards and they do not appear among the members of the Inland Water Transport Board as now constituted. The Chairman is the Minister for Posts and Telegraphs, and the members consist of a representative from the same Ministry and one from the Ministry of Finance and Revenue together with representatives of other corporations and boards, a member of Parliament and a non-official nominated by the President. A conspicuous instance of the degree to which the Government through these autonomous agencies permeates the daily life of the people is provided by the operations of the Civil Supplies Management Board. This Board also illustrated the fact that these agencies are not merely the creation of socialist ideology but have their root in the facts of the post-war economic situation, for it derives from the Department of Commerce and Supplies under the interim British Government. It was constituted by executive Order in 1951 and the Board includes the Commissioner and Deputy Commissioner of Civil Supplies, the representatives of three Ministries, a representative of the Co-operative Societies Department and three non-officials, of whom two however must be members of a Co-operative Society. For the distribution of supplies it functions mainly through co-operative societies, with a branch at District Headquarters under the Deputy Commissioner, and subordinate branches on much the same lines at Township Headquarters. Thus its operations extend down to the lowest level of administrative organisation. Under the original Order it was charged with the "procurement of supplies or things that may be deemed necessary for the civil population of Burma" and was exclusively responsible for the distribution of sugar, tinned milk, tea, cotton yarn and other major commodities. Since then the scope of its activities has been widely extended.

The Boards and Councils concerned with social welfare present a very similar pattern, but usually have a larger proportion of non-officials on the Board.

The expert deputed by the United Nations to survey administration in Burma suggested that there was not infrequently a duplication of functions

between the Corporations, Boards, Ministries and Departments and a tendency to multiply Boards in order to relieve Ministries or Departments of functions which they should be able to perform. He suggested also that the conditions under which these agencies operate are unduly restrictive and thereby defeat the main object of creating them. He commented too on the need for the members of the Boards to have a practical approach to such duties. But, as already explained, on the attainment of independence there were no Burmans with the necessary experience, and it is only now that, with financial assistance and guidance from these institutions, some private individuals are painfully acquiring it.

The Joint Ventures are on quite a different footing. These had their origin in pre-war capitalist firms with which the Government has gone into partnership, part of the capital being provided by the previous company and part being subscribed by the Government to form a new Company, with a Board of Directors on which each party should be represented. The Directors representing the former company provided expert knowledge, and those representing the Government can explain the views and wishes of the Government at the same time that they are acquiring practical experience in managing the business. The original intention was that the whole business should be taken over by the Government as soon as the outstanding share of the capital could conveniently be made available, but from a recent statement by Prime Minister U Nu it seems that the Government has learned to value the help and guidance of the non-official Directors and to appreciate the need for further experience before undertaking sole management. The Pharmaceutical Factory is not, strictly speaking, a joint venture, as the firm which is assisting the Government has not put up any part of the capital, but in effect it is operated on very similar lines though apparently it has not so free a hand as the joint ventures in the recruitment of staff.

The commercial Joint Ventures have not yet been finally constituted. The present intention is that each Corporation shall have a capital of K.5 million (\$1.05 million) of which the Government will subscribe K.2.6 million and the remaining capital in K.100 shares will be open to Burma citizens up to a limit of K.10,000 for each subscriber, this being the minimum qualification for membership of the Board of Directors. The chief object of these is to remove the difficulties which the new business men of Burma encounter through their lack of capital and experience. Only by combination on a considerable scale, with large capital, and by pooling the expert knowledge which the Government can obtain are Burmans likely to hold their own against foreign competition. As the major owner of capital, the Government will be able to exercise effective control and, by providing facilities in regard to import licenses and other concessions, it will do much to facilitate profitable operations. To the extent that these enterprises succeed they will extend the sphere of government in economic activities, but in the long run they should foster the growth of an independent class of business men who will resent instead of welcome Government intervention in the conduct of economic enterprise.

Over the four State Banks the Government exercises no direct control and it is not represented on the Boards of Directors, but it provides the initial capital and appoints the Directors and in various ways can exercise considerable influence on policy; beyond that however it has little or no say in the conduct of their affairs and they are in practice as well

as in name autonomous agencies in providing the financial apparatus needed for the development of Burma along lines approved by the Government

Perhaps one can best understand the situation in Burma at the present day by a comparison with Java in 1830. Under French rule the Dutch had forgotten their tradition of commercial enterprise; they had no capital, no manufactures, and did not aspire beyond cultivation and petty trade. In Java, under the liberal system of free enterprise inherited from Raffles, the profits of economic activities went to English manufacturers and merchants and the land to Chinese middlemen; the Treasury was empty and the people were in debt. Van den Bosch introduced the Culture System of State control over enterprise, and within a few years Java was producing a large annual surplus, which enabled the Dutch to build up a mercantile marine, brought them into business in Java and, until it was overworked, put money into the pockets of the Javanese. By 1870 the men whom Van den Bosch could hardly drag from behind their counters, were clamouring for liberation from the trammels of State control. Van den Bosch was more happily situated than the present rulers of Burma, because shortly before his arrival a State Bank had been established, and the suppression of a widespread insurrection had left him in command of a strong army. But, if Burma can produce a Van den Bosch, one may not unreasonably expect that in the course of one or two generations the intervention by the State which the present social and economic situation demands will fade away because its success will have rendered it no longer necessary.

(d) The Judiciary (Section 133 to 153) Throughout the Union justice is administered in Courts established by the Constitution or by law. The Courts established by the Constitution are the Supreme Court and the High Court. The Supreme Court and High Court replaced the former High Court of Judicature with such changes as the new situation required; all the original members of the Supreme Court had formerly been Judges of the High Court under British rule, and had all been called to the bar in England, as had some of the other senior judicial officers of the new regime. Thus English legal traditions were strongly represented at the centre of the new judicial organization. The number of judges in the Supreme Court and the High Court is fixed by law, as are their salaries and conditions of service, and no change to their prejudice may be made in these except by their voluntary agreement on an occasion of general retrenchment for all services. The Constitution provides that, all Judges shall be independent in the exercise of their judicial functions and subject only to the Constitution and the law.

The Supreme Court has jurisdiction throughout the whole of the Union, and the law as declared by it is binding on all Courts. The head of the Supreme Court is styled the Chief Justice of the Union. He is appointed by the President with the approval of both Chambers of Parliament in joint session. No discussion of the suitability of the President's nominee is permitted. The same procedure is adopted in the appointment of all the other Judges, both of the Supreme Court and of the High Court. The Judiciary Act provides for the appointment of five judges of the Supreme Court; originally there were only three members, but since 1955 there have been four. In the default of a quorum the Court may call in a Judge of the High Court to sit with the regular members, and this was often found necessary before a fourth judge was appointed. No judge of the Supreme Court may be removed except for proved misbehaviour or incapacity.

No charge may be preferred against any judge of the Supreme Court except at the instance of one of the Chambers on a resolution supported by a majority of the members present, and it must then be investigated by a Special Tribunal consisting of the Speakers of the two Chambers and the President or a deputy appointed by the President. The alleged delinquent has the right to appear and to be represented in the proceedings. If the Tribunal unanimously declares that the charge has not been proved, its decision is final. In other cases its report is considered by both Chambers in joint sitting and, if the majority so decides, the President must order the removal of the culprit from his office.

The Supreme Court is the Court of final appeal from all judgments, orders and decrees of all courts within the Union; but leave to appeal must first be obtained from the High Court, or special leave from the Supreme Court. Any person has the right to move the Supreme Court (section 25) to issue directions in the nature of Habeas Corpus, mandamus, prohibition quo warranto and certiorari appropriate to the fundamental rights guaranteed under Chapter II of the Constitution. This right has been freely exercised. In 1954 there were only 6 criminal appeals and 20 civil appeals but there were no less than 183 criminal and 152 civil miscellaneous applications. The Supreme Court may be called on by the President to deliver an opinion on any question of law, and this procedure has been found useful in connection with proposed legislation regarding the exploitation of natural resources on which the Constitution placed certain restrictions. Similarly in the case of legislation by the constituent States, the President may refer a Bill to the Supreme Court with a view to ascertain whether its provisions are in any way repugnant to the Constitution.

Since the Supreme Court was first established an unforeseen burden has been placed on it. One feature of the insurrections has been the looting of rice and rice products in the possession of the State Agricultural Board for which payment was outstanding. To meet these claims a whole-time civil court was established under the Special Civil Court Act (LXXXIII) of 1951, with a member of the Supreme Court as president of the tribunal. This is the chief reason why it was often so difficult to provide a quorum of three judges for the ordinary work of the Supreme Court until the situation was relieved by the addition of a fourth Judge. The Supreme Court sits in Rangoon but may also sit at such other places as the President in consultation with the Chief Justice of the Union may direct.

The inviolability of the Supreme Court as interpreter of the Constitution is safeguarded by the provision that no law may be passed exempting from its appellate jurisdiction any question as to the constitutional validity of laws, and in all cases its decision is final.

The High Court has original jurisdiction for the City of Rangoon and in all matters relating to the interpretation of the Constitution, and in all disputes between the Union and one of its component units, or between one unit and another; it is required to transfer to itself any case pending in an inferior Court if it is satisfied that a constitutional issue is involved. It is also the principal Court of Appeal for the whole Union in both criminal and civil matters, and all capital sentences by an inferior court require confirmation by the High Court. It must sit in the

capital city but, like the Supreme Court, it may sit at such other places as the President in consultation with the Chief Justice of the Union may direct; in October 1956 arrangements were made for a Judge of the High Court to sit permanently in Mandalay. The Constitution also directs that one or more judges shall sit at such place in the Shan State as the President may appoint after consultation with the Chief Justice of the Union. As already mentioned, the procedure for the appointment of the Chief Judge and other Judges of the High Court is the same as for the appointment of the Chief Justice of the Union. The procedure for the removal of a High Court Judge is the same as for the removal of a Judge of the Supreme Court, except that the Chief Justice of the Union replaces the President on the tribunal.

One innovation in judicial procedure was introduced by the British Government on its return from India in 1945 in order to cope expeditiously with the enormous volume of crime. The Special Judges Act (IX) of 1946 empowered the Government to appoint Special Judges who could try sessions cases by the less cumbrous procedure applicable to warrant cases. These powers have been conferred on Sessions Judges and on some Assistant Judges. Subsequently a Bureau of Special Investigation was created in 1947 to deal with cases under the Public Order Preservation Act (XVI), the Foreign Exchange Regulation Act (XLIV), the Essential Supplies and Services Act (XLVII), and Control of Imports and Exports Act (LVI); in 1948 the new Government in its zeal for the suppression of corruption, passed the Restriction of Bribery and Corruption Act (LXVII) and extended the function of the Special Investigations Bureau to deal with such matters. All the offences investigated by the Bureau under these Acts are triable by the Special Judges.

Apart from these Special Judges the former machinery for judicial administration in the Districts has been retained. In each district there is a District Magistrate primarily responsible for the maintenance of law and order throughout the district and with executive authority over all the subordinate magistrates in the District. All these magistrates, distributed over the townships, have first, second or third class powers, and the senior magistrates have special powers to try all offences not punishable with death and to impose a sentence of imprisonment up to seven years. The District Magistrate may himself try some original cases and is the appellate authority for all the magistrates with second or third class powers. All these magistrates are officials of the executive administrative service but, in the discharge of their judicial functions, they are all subject to the control of the High Court.

In each district, alongside the District Magistrate, there is a Sessions and District Judge. As Sessions Judge he tries all those serious cases which the law requires to be committed for trial before a Sessions Court; he hears appeals from first class magistrates and also from special power magistrates unless the sentence exceeds four years, when the appeal lies to the High Court. The District Court is the counterpart of the Sessions Court on the civil side. The District Judge exercises original jurisdiction in the more important civil cases; he also hears appeals from the Assistant and Subordinate Judges within the district, though in certain cases there is a second appeal to the High Court. The Assistant Judges and Subordinate Judges try the civil cases arising within their jurisdiction according to the limits prescribed for

their respective Courts. Many of the Assistant and Subordinate Judges also try criminal cases as magistrates, and some may be whole-time magistrates. Thus, except that the magistracy does not deal with civil work, there is no hard and fast line between the judicial functions of officials of the executive and judicial services. This rather complicated system may be illustrated by taking a district at random from the Civil List.

At the headquarters of a typical district there are seven officials of the executive service who exercise magisterial powers. The District Magistrate and his Headquarters Assistant are first class magistrates with special powers; the Head Revenue Assistant (akunwin), Treasury Officer, Headquarters Subdivisional Officer and Headquarters Township Officers are all first class magistrates, and an Assistant Township Officer has only third class powers. Alongside these are five officers of the Judicial Service. The District and Sessions Judge and an Assistant Judge both have special magisterial powers; the latter, though in the Judicial Service, is a whole-time magistrate and a Special Judge for the trial of Special Investigation cases. The Registrar of the District Court and the Headquarters Assistant Judge both have first class magisterial powers, and the Headquarters Subordinate Judge (with the powers of a Small Cause Court up to Rs. 100) has second class magisterial powers. The District Magistrate might take only appellate and revisionary work, and the District and Sessions Judge would have no criminal work apart from sessions cases; the ordinary criminal cases for trial at the district headquarters would be distributed by the District Magistrate among the other magistrates, having regard for their other executive functions, and in respect of officers of the Judicial Service, in consultation with the District and Sessions Judge. For the outlying townships there would be a similar though smaller group of magistrates and judges sharing the work. In a remote township there might be no more than two officers, a Township Magistrate acting also as Additional Judge of the Township Court and a Sub-Judge of the Township Court acting also as Additional Magistrate.

In general it may be said that the officers of the administrative Civil Service are servants of the executive government who, among their miscellaneous duties, exercise magisterial powers in virtue of their responsibility for the maintenance of law and order, whereas the officers of the judicial service are servants of the law, responsible for applying the law to such issues as are put before them for decision. But magistrates and judges alike are responsible in their judicial proceedings to the High Court which, under the Supreme Court, is the ultimate guardian of the rule of law. As the foregoing account shows, the Government of independent Burma has taken over the concepts and procedure of English law in mass and detail. In Burma, as elsewhere and perhaps more than elsewhere, the law has not infrequently been an instrument of injustice, and there is a strong undercurrent of resentment against the subtleties of the "Big Book" (sa-ok-gyi), the LAW, and in a socialist State one might expect a closer regard for social welfare than for individual rights. Yet the English conception of the rule of law is firmly entrenched in the Constitution.

The explanation of this is of some interest. Under British rule the legal profession offered Burmans the speediest and most certain method of attaining wealth and distinction and it therefore attracted men with the best brains and the keenest ambitions, who naturally took a leading part

in framing the Constitution. Most of the leading Burman lawyers had been trained in England, and they imbued the Constitution with the individualist principles which are so strong in English legal tradition. Also the High Court under British rule was jealous of its prerogatives and inherited the critical attitude towards the executive authorities that has been characteristic of Indian Courts from the time of Warren Hastings. In this way it came to be regarded as in some measure an ally of those who, like the nationalist leaders, were in opposition to the Government, and this disposed Burman Ministries to accept the principle of the rule of law even after they had attained power and found their authority questioned in the Courts. But the appointment of the Judges rests with Parliament, and therefore with the party which has a majority in the Parliament; it is not improbable that in course of time the Judges will be of the same political complexion as the Government, the Courts will follow the elections and tend to be less critical of socialist activities.

### CHAPTER III. LOCAL GOVERNMENT

#### 1. Local Bodies.

The machinery of local government in Burma proper under British rule has already been described. Burma was divided into Divisions, Districts, Subdivisions and Townships, under the charge respectively of Commissioners, Deputy Commissioners, Subdivisional and Township Officers. Alongside these officials in charge of general administration there was a parallel organisation of judicial and other departmental officers. The administrative and departmental officials posted to these various charges were not instruments of local government but merely agents of the central government. On the transfer of power the whole of this machinery was taken over by the new government.

In common usage in Burma the term local government is restricted to organs consisting wholly or partly of local non-officials and concerned with the promotion of local amenities. These organs comprised municipal and town committees and district councils. Representative Municipal Committees were first constituted by law in 1874, and became partly elective in 1884; they were re-organized under the Municipal Act of 1898. Town committees with less extensive powers were constituted for the smaller towns. In 1922 the Municipal Committee of Rangoon was endowed with a higher status as the Rangoon Corporation. The District Councils were constituted under the Rural Self-government Act of 1921. These Acts remained in force up to the Japanese invasion. On the restoration of British rule all the former local bodies were suspended and their powers and responsibilities were vested in the Deputy Commissioners. Since the transfer of power the former committees and councils have been restored, except where they were replaced by local bodies on the new plan described below.

After the annexation of Upper Burma in 1886 all the districts in Burma were divided into village tracts, usually about 50 to a township, and a village headman was appointed to each village tract, with power to try petty criminal and civil cases. This village system as revised in the Village Act of 1907, remained in force up to the end of British rule, but an amendment in 1924 required the Deputy Commissioner, before appointing a headman, to ascertain the wishes of the villagers by means of an election, and gave the headman the assistance of an elective village committee for the trial of cases. This Village Act still applies in places where the new plan has not been introduced.

During the later days of British rule the matters of which the administration was vested in municipal and town committees comprised "vernacular education, conservancy, water supply, maintenance of buildings, roads, bridges, etc., street lighting, vaccination, markets and slaughter-houses, and, in general, matters affecting the safety, health and convenience of the public." <sup>1/</sup> Control over the Rangoon Corporation was vested in the Local Government, but, as regards other urban authorities, Divisional and Deputy Commissioners were empowered to exercise general supervision over the committees and were given powers to overrule the committees in circumstances of special emergency. The general principle, apart from this

<sup>1/</sup> Indian Statutory Commission, xi, p.457.

indirect control, was to leave the administration of local affairs to committees periodically elected. But the members usually had little interest in the adequate performance of many of the functions with which they were entrusted. The tendency was "to increase the number and pay of the staff rather than to demand an adequate standard of work." Various devices were adopted to counteract this tendency but, as already noted, the committee were regarded in general as inefficient and corrupt.

The District Councils consisted of a majority of elective members chosen by Circle Boards elected by the local tax-payers together with a minority of official and appointed members. These were similarly subject to the control of the Commissioner; they were charged with the administration throughout the district of minor roads and waterways, sanitation, hospitals, markets, slaughter houses, veterinary matters, and other matters affecting the well-being of the local public. The original intention was that they should delegate their powers to Circle Boards and Village Committees, but in practice the Circle Boards became merely an electoral college and no Village Committees were constituted under the Act. Like the municipal committees, the district councils were regarded as inefficient and corrupt.

The suspension of the powers of local bodies by the British Government after the war cleared the way for a reconstruction of local government on new lines, and the Burmese Government devised a plan for making it both more democratic and more efficient. One fundamental defect of the former system was that members of the various councils and committees were expected of their own accord to do and pay for many things that they did not want to do and did not recognise as necessary, while there was no adequate supervision or control over their conduct of affairs, or over the expenditure of their funds. Also there was no organic link between the central government and the local councils, or between urban and rural administration, or between the district council and the villages. The new plan aimed to link all the local councils within a district within one organic whole, to provide adequate supervision, to encourage the promotion of welfare, and to create machinery for the effective promotion of welfare and to supply the requisite funds.

Under section 91 of the Constitution provision may be made by law on principles of regional autonomy for delegating to representative local bodies specified powers in administrative, cultural and economic matters. It was in accordance with this section that the Democratic Local Government Act was passed in 1953. Under this Act each village elects a Village Council, normally of five members. Each ward in a town elects a Ward Committee of three to five members, and each Ward Committee sends representatives to an Urban Council. The Village and Urban Councils are brought together in a Township Council comprising one representative of each Urban Council. Each Township Council is represented by four to eight members on the District Council. The small Village and Urban Councils are required to meet once a month; the larger Township and District Councils are convened in full session only twice a year, one of these meetings being to frame the annual budget, but the members choose from among themselves a small Executive Committee to conduct the ordinary business.

The various councils are graded in regard to their authority; the Village and Urban Councils are subordinate to the Township Council, and the Township Councils are subordinate to the District Council which is directly

subordinate to the Ministry of Local Government. Each Council must comply with all lawful orders from superior authority but otherwise has full liberty to promote local welfare in any way that is not contrary to the policy of government, and to the full extent to which it can provide the requisite funds. The general idea is that in all aspects of social life the central government shall prescribe a national minimum of welfare; each District Council must attain this standard but may prescribe a higher district minimum. Each Township Council must attain the district minimum but may prescribe a higher township minimum. Each Urban or Village Council must attain the Township minimum but may adopt a higher local standard. Provision is made also for two or more Villages to join forces for any common end. On this plan all the local communities within a district are linked together in one organic whole for the promotion of the common welfare, while a spirit of emulation between the Councils should encourage them to undertake more than the prescribed minimum required.

One defect of the former system was that the local councils were supposed to manage their own affairs but they were not equipped with the administrative machinery for managing them efficiently. Each council had its own secretary who was in effect the executive officer. But the secretary to the district council was usually the clerk who had formerly been concerned with such matters in the district office, and who had neither the qualifications nor the experience requisite for his new functions. The councils were left to appoint their own officers, subject to certain regulations; with the funds available they could not engage honest and capable employees, yet these men were left solely responsible to the council although the members of the council had no special qualification for supervising them. A dishonest or incompetent engineer and a dishonest or incompetent contractor could easily hoodwink the members of the council, even if none of these had a rake-off on the transaction. For this the new plan attempts to provide a remedy. The former Deputy Commissioner, relieved of magisterial and revenue functions, becomes the Chief Executive Officer of the District Council and should exercise supervision over all branches of the administration, just as he did, or was supposed to do, when Deputy Commissioner. He is responsible to the Council for giving effect to its policy with due efficiency, but at the same time he is responsible to the Council and, if necessary, to the Ministry for the prevention of irregularities.

Arrangements along similar lines are intended to promote efficiency and prevent malpractice in the various departments of the District Council's activities. For example, there is, as there always has been, in each district a Public Works official of the central government and an official in charge of local public works. Formerly there was no connection between the two. On the new plan the local public works official of the central government is also District Engineer and head of the public works service of the District Council and of all subordinate local councils. The District Council frames its policy, decides how much it can afford to spend on roads and buildings, what roads and buildings it requires and gives out the contracts. The District Engineer is responsible to the District Council for giving effect to its policy, but, in his professional capacity, for seeing that the works are carried out with due economy and efficiency, he is responsible not to the District Council but to his superior officer in the Public Works Service of the central government. Similarly the Township Council may appoint a Township Engineer who will be

responsible to the Township Council for giving effect to its policy, but in respect of economy and efficiency in the conduct of the work he is responsible to the District Engineer. The same principle is applied in all departments of the local government service. Each official is responsible to the Council which employs him for doing what the Council wants, but in the practical execution of the work he is responsible to a professional superior with better qualifications or greater experience.

On this plan each local council is, within the limits of its jurisdiction, both an instrument of local government and an agent of superior authority. If, for example, the central government decides that there shall be a primary school in every village, it can appoint a village school master in every village and supervise his work by departmental agency. Or it can employ the Village Council as its agent, delegating to it the responsibility for maintaining the school in accordance with departmental instructions; in that cast it must provide the Village Council with the necessary funds and with such other assistance as may be expedient; the Village Council would also have the power to provide a school better than the prescribed minimum standard by paying for an additional teacher or for greater amenities. Similarly, if the Public Health Ministry decides that there should be a tube-well in every village, it can have the work done departmentally or by the Village Council as its agent, and the Village Council, if it deems fit, can put down more tube-wells than the Ministry prescribed. The intention is that, so far as possible, all work in connection with the public welfare should be conducted by local councils, either as agents of superior authority or on their own initiative, and it is laid down that any authority prescribing work must provide the requisite funds.

This plan should minimise, though it does not remove, the main obstacle to efficiency in local self-government in a country like Burma, where the people do not want things that in the modern world they need and ought to want. It is only by personal influence continually exercised that they can be taught to want such things and appreciate their benefits. The former system of local government allowed no scope for personal influence because officials were transferred at short intervals from one district or one function to another merely for administrative convenience. The usual justification for this practice was the assumption that foreign officials needed to recuperate at frequent intervals in Europe. But it was also defended on the ground that an officer in a new charge soon exhausted his utility and should be replaced by some one with a different outlook on affairs. And, especially as regards Burman officials, it was held that, if they stayed too long in one place, they would become too intimate with the local people and take sides in local politics. So long as little mattered except the maintenance of law and order, frequent transfers were comparatively innocuous and perhaps beneficial; a partisan magistrate is a public danger. But frequent transfers are incompatible with the exercise of personal influence in the interest of public welfare, and an official with no magisterial functions need not adopt the cold aloofness of the law. The intention of the plan is accordingly that the former Deputy Commissioner in his new capacity as Chief Executive Officer of the District Council shall remain more or less permanently in one charge unless there is sufficient reason for a change. Another feature of the new plan is the intention that the administrative head of each department of the District Council shall regard the education of the public in respect of their activities as one of his

primary functions. If the administrative officials can gain the support and assistance of the members of the local councils and make full use of the new audio-visual facilities for enlightenment one may reasonably anticipate a change in public opinion on such matters.

The present position with regard to local government, however, is obscure. Nominally the plan has been introduced into ten districts but only in two has it been in operation for more than a few months. Certain difficulties were foreseen and have been experienced. Chief among these is the conflict between local self-government and centralized departmentalism. As soon as Burma became independent the Government began to undertake numerous unprecedented activities and, as each new ministry or department came into existence, it entered with enthusiasm on its task to the full limits of the funds and staff available, organizing local committees in each district, township and village. Thus in some villages one may find, at least in nominal existence, a village education committee for the village school, a village public health committee for the local water supply, a village fire-fighting committee for protection against fire, a village co-operative committee, a village defence committee and so on. The most comprehensive of these organizations is the village pyidawtha (national welfare) committee with much the same functions as the village council. And the most powerful organization is the local land distribution committee under the land nationalization programme.

These various village committees all function, if at all, under departmental officials of the Township Officer; they all have their own funds administered under departmental supervision, and the support of the Ministry in maintaining their independence. The intention is that all these activities at the appropriate levels should be brought within the sphere of the District, Township, Urban and Village Councils. How far this intention has been realized is uncertain. It appears, however, that, where these new Councils have been introduced, the previous pyidawtha committee has been dissolved and its functions handed over to the corresponding Council. It is significant moreover that the Minister in charge of land nationalisation was also appointed Minister for local government to supervise the introduction of the new plan. A further step in the same direction was taken with the reconstruction of the Government under the new Prime Minister in June 1956, when the same Minister was appointed a Deputy Prime Minister with a general charge over all social services and the various ministries dealing with various aspects of public welfare. This is perhaps the best guarantee that a solution for the problem of reconciling departmental activities with local self-government may ultimately be found.

Two other obstacles to the working of the new plan are the difficulty of finding suitable incumbents for the post of Chief Executive Officer to the District Council, and the difficulty of providing the various councils with sufficient funds for the discharge of their responsibilities. Formerly the Deputy Commissioner enjoyed the prestige attaching to members of the Indian Civil Service and, as District Magistrate and Collector of Revenue, seemed the most powerful official in the district, though the limitations of his position precluded the effective exercise of power or influence for the promotion of welfare. In the new plan, the Deputy Commissioner as Chief Executive Officer will have no magisterial powers or any direct responsibility in revenue affairs and in course of time he

should, in virtue of his acquired experience, attain much greater power and influence than he ever exercised as District Magistrate. But some officials seem to regard the new position as a step down, and are reluctant to exchange the power of sending people to jail for the privilege of serving them. And it is not improbable that some members of the District Council, full of their new importance, are more inclined to assert it at the expense of the officer deputed to assist them than to welcome his assistance.

The lack of adequate funds has always been one of the weak points of local bodies in the past. A strong Fiscal Committee of 1940 remarked that "a local authority which depends (as do most District Councils) for the bulk of its revenue on fixed grants cannot be a responsible body, and its finances tend to have an air of unreality." <sup>2/</sup> One feature of the new plan is the principle that every authority enjoining any function on a local body must provide the necessary funds. But it is easier to state this as a principle than to apply it in practice. A step in this direction has been taken in the decision that land revenue shall be allocated to local bodies; if the assessment and collection of revenue were as efficient as in the past, this would go far to meet the cost of local government, but, owing to the disturbed conditions of the country, the revenue from this source is comparatively insignificant, and the problem of providing local authorities with sufficient funds still awaits solution.

Among other features of the plan which deserve special notice are certain devices intended to ensure that the machinery works on democratic lines as an instrument of popular government and not merely of party government, and to provide safeguards against the subversion of the Constitution and the seizure of power by a would-be Dictator, whether fascist or communist. The franchise is the same as for elections to Parliament; there is adult suffrage at the age of 18 subject to certain specified disqualifications. But, whereas for parliamentary elections the residential qualification may be fictitious, it is laid down in Rule 8 of the Rules under the Act that, for inclusion in the electoral roll for any place, residence for not less than six months during the previous year is essential. Thus a voter must be an actual permanent resident of the village or town in which he is entitled to vote; a party member cannot be sent down from party headquarters to become the nominal representative of the village. Also, it has been recognized that, in a democracy, voting is a duty and not a privilege, and accordingly appearance at the polling station has been made compulsory. This arrangement, if implemented, should provide an adequate safeguard against power falling into the hands of a clique through the neglect of the majority to take the trouble of voting. Again, experience shows that a would-be dictator usually seizes power by obtaining control of the military or the police. The Act accordingly provides for the creation of a village police force and a village defence force which shall be under the control of the local civil authorities instead of under the regular army or police, so that there should be means for resistance to a coup d'etat that has not general support among the public.

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<sup>2/</sup> Fiscal Committee, Interim Report (1940), p. 6.

Another innovation of some interest is the provision for the appointment of a People's Counsel. In the past it has happened infrequently that men of wealth or local influence have been able by bribery or bullying, to deprive others of house or land, or in various ways despoil them. The victims are either too weak or ignorant to assert their rights in the Courts or, if they go to law, they lose their case because they cannot afford to hire a skillful advocate or to buy the judge. Often in such cases the public interest is involved and goes by default for lack of any machinery to protect it. The Act provides accordingly for the appointment to each District Council of a People's Counsel who "shall be responsible for advising any Local Body in matters of law; for helping the people to secure justice, to take effective measures against corruption in all branches of the administration and to secure to the people the rights guaranteed to them under the Constitution. It seems however that this innovation is regarded with suspicion by the legal profession, which has done very well without it in the past, and apparently no such appointment has been made in Districts where the new Councils have been introduced.

(b) The Village Court. One feature of the plan for the general reorganization of local government is the creation of a new type of village court. Formerly it was the usual practice for people to settle their disputes, civil or criminal, through informal arbitration by local elders; in difficult cases they could invite the assistance of the Circle Headman though he had no legal status in such matters; but ordinarily "they would hardly ever dream of disputing the decision of the local elders; for them it was as binding as any Civil Court would make it." 3/

When the Government broke up the circles and instituted village headmen, it attempted to strengthen the authority of the village headman by empowering him to decide civil disputes up to the value of Rs.5 and to try petty cases of assault, theft, mischief, criminal trespass and such other offences as might be specially notified. Ordinarily his powers were limited to imposing a fine of Rs.5 or confinement for 24 hours but, if specially empowered, he could impose a fine of Rs.50 or confinement for not more than 15 days. Under the Act as amended in 1924, village committees, periodically elected, with the village headman as chairman, were constituted for the performance of these functions, and a simple procedure was drawn up for their disposal of civil suits. Resort to the village court thus constituted was optional. The orders of the tribunal in criminal matters were subject to revision by the Deputy Commissioner or Subdivisional Officer in their administrative capacity and not as magistrates, so that the cases lay outside the province of the High Court and other judicial authorities; in civil matters there was no appeal, but in certain circumstances there might be an application to the local Township Judge for revision.

Under the new plan, as set forth in the Democratic Local Government Act of 1953, the place of the village headman was taken by an elective village council, normally of five members, with a chairman chosen by the members from among themselves. All the previous functions of the village headman as a judge, magistrate, police officer and revenue officer devolved upon the Council, together with his general responsibility for the promotion of welfare. For each village tract there was constituted a Village

3/ Report on the Administration of Burma, 1868-69, p. 60.

Court consisting of all the members of the Village Council. This Village Court took the place of the former Village Committee. All the members of the Council are entitled to sit in the Village Court for trying cases, and no case may be tried or decided by less than three members of whom at least two must have continued unchanged throughout the case. The Chairman of the Village Council, if present, is the Chairman of the Village Court; in his absence the members present choose a member from among themselves. No member of a Village Council may sit as a member of the Village Court for hearing any case in which he is a party or is personally interested, or which he has caused to be instituted.

The new plan aimed to restore the vitality of the Village community which had disintegrated under foreign rule, and for this purpose it proposed to allow greater autonomy in the disposal of village affairs to the Council representing the village community, and to endow the Council with greater authority in connection with criminal and civil cases than the former village committee possessed. The intention was that the Village Court should dispose of matters so far as possible in an informal manner by mutual arrangement so as to satisfy the sense of justice within the village, which is not infrequently outraged by a strict application of the law.

In criminal cases the range of the Village Court's jurisdiction was meant, in general, to be much the same as that of the former village committee, but the pecuniary value of the damage of which the Court could take cognizance was raised from Rs.5 to K.200. One important innovation was to confer on the Village Court much greater freedom than other Courts in allowing the "compounding" of offences by the voluntary payment of compensation by offenders to any person aggrieved. This should facilitate the amicable settlement of disputes. Another new feature, of still greater practical importance, was to invest the Village Court with power to demand security for keeping the peace, or for being on good behaviour, similar to the power conferred on certain magistrates under the preventive sections of the Criminal Procedure Code. Many criminals start their career as petty bullies or petty sneak thieves in their own village, but formerly the village community had no power to deal with them, and no one outside the village had sufficient interest in the matter until the village nuisance joined the ranks of major criminals. The conferment on the Village Court of power to deal with such lads should promote harmony in the village and should help to reduce the excessive criminality of Burma by dealing with the problem at its source. The most fundamental change however was that there was no longer to be any option as to the place of trial. Formerly most petty cases and all those that reached the police were sent up for trial before a stipendiary magistrate, usually the local Township Magistrate. In the new Act it was laid down that "cases triable by the Village Court shall be tried only by that Court," and the police were directed to refer such cases to the Village Court instead of investigating them with a view to trial by a stipendiary magistrate.

The powers of the Village Court were far greater than those of the former village committee. They were empowered to impose a fine of K.30; or to sentence an offender to useful labour up to one month; or to simple or rigorous imprisonment up to one month in such manner and in such place as might be prescribed by rules under the Act. In either of the two latter cases a fine could be imposed in addition to other punishment. A Village Court could be specially empowered to impose a fine up to K.200, and of

imprisonment up to six months. The Minister charged with the introduction of the new plan has explained that sentences of imprisonment were intended to be exceptional, "as a last resort." 4/ There have been suggestions that for many such cases a few hours in the stocks would be the most suitable form of imprisonment; but apparently this is regarded as out-of-date, symbolic of "backwardness," and no such provision seems as yet to have been included in the Rules.

There is no appeal against an order of a Village Court imposing a fine of not more than K.50; in other cases an appeal lies to the District Magistrate; but at any stage of the proceedings before a Village Court, the District Magistrate may call for the record, either of his own motion or at the instance of the People's Counsel or of any party concerned, and, if he thinks fit, he may withdraw it from the Village Court, take cognizance of any offence disclosed and either try it or refer it for trial to a stipendiary magistrate. And after the case has been decided the District Magistrate may call for the record to ascertain "whether or not the judgment is in accordance with justice," and he must call for the record on an application by the People's Counsel, the District Superintendent of Police or any other public servant concerned. If he finds that the case was beyond the jurisdiction of the Village Court, or "that the judgment is contrary to justice," he can pass such orders for quashing the conviction or for re-trial by a stipendiary magistrate or may take such other action as may seem proper. As soon as any matter reaches the Court of the District Magistrate it comes within the cognizance of the High Court. These provisions ensure that every one who comes before a Village Court should have the full protection of the law against injustice arising through ignorance, incompetence or bias.

There is however one difficulty for which no satisfactory solution seems to have been found. The former Village Committee was empowered to try the offences of assault, theft, mischief and criminal trespass. The intention was that the Village Court should have much the same range of jurisdiction. But in the Penal Code, there are no such comprehensive offences. For example, there are numerous offences under the head of mischief; some of them are suitable for trial by a Village Court, but others are unsuitable. Mischief is one offence when the damage sustained is not more than K.50; a different offence if the damage is not more than K.200; a different offence if the damage not exceeding K.10 is sustained in respect of an animal; a different offence if the animal is valued at more than K.50; a different offence if the damage, however small, arises in connection with a public road; a different offence if damage, however small, is occasioned to a public road by flooding; and mischief by destroying a public survey mark is a different offence. All these kinds of mischief were regarded as suitable for trial by a Village Court. The former Village Committee could try any kind of mischief so long as the damage did not exceed the limits of its jurisdiction. The judicial authorities held however that to empower the Village Court to try cases of mischief without reference to the appropriate section of the Penal Code would be unconstitutional by creating a different law for urban and rural areas and thereby contravening the constitutional provision for the uniformity of law. The Village Court is therefore required to specify the particular section under which it is acting and to reject for trial by another court any kind of mischief, however small the damage, falling under any section other than those which it has been empowered to try. This

4/ Burma, Vol. V, No. iii, p. 16.

implies that the members of Village Courts must have an intelligent acquaintance with the whole Penal Code and, as many of the members of such Courts can only by courtesy be regarded as literate, any such expectation is entirely unrealistic and likely to cause injustice. If the Village Courts had been given powers in the same general terms as the former Village Committees, the powers of the District Magistrate to intervene during or after the disposal of a case would have provided adequate precaution against abuses; but less work for lawyers. Possibly, however, in ordinary practice, common sense will prevail, and in course of time the law will be changed so as to give effect to instead of defeating the purpose of the Act as an instrument for the better administration of justice, the restoration of the village community and the reduction of crime.

As regards the civil jurisdiction of the Village Court likewise the intention of the Act was to confer greater power on it than had been enjoyed by village committees. Formerly the Commissioner could invest a village committee with the powers of a Civil Court for the trial of suits between persons of whom both or all, as the case may be, reside within the village tract, and could specify the classes, and the value, not exceeding Rs.50, of the suit which such village committees could try. There was no right of appeal, but the decisions were subject to revision by the Township Judge. But no one was bound to institute a suit in the Court of a Village Committee.

Under the new Act suits not exceeding K.500 in value have to be tried in the appropriate Village Court if they fall within any of the following classes; there is no option of resorting to any other Court.

- (1) (a) Suits for damages for assault or injury;  
(b) Suits for damages for defamation;  
(c) Suits for damages for mischief caused by cattle trespass;  
(d) Suits relating to money for moveable property;  
(e) Suits on contract;  
(f) Suits relating to sale or purchase of goods;  
(g) Suits relating to a right of way, and,  
(h) Suits relating to the use of water from wells, tanks, weirs, channels, bund, dams, or water-courses.
- (2) Also, irrespective of their value,  
(a) Suits for divorce;  
(b) Suits for the restitution of conjugal rights.

(Provided however that the jurisdiction in suits for divorce and partition of property the value of the property to be partitioned could not exceed K.1,000).

Where all the defendants reside within the same village tract, and the cause of action arises within the limits of the same village tract, the Village Court of that tract is the Court having jurisdiction; where all the defendants reside within the same village tract, but the cause of action arises in another village tract, the Village Court in either village tract has jurisdiction. In other cases the suit must be instituted in any Civil Court having jurisdiction under the ordinary civil law. On the application, however, of a party concerned, or of the People's Counsel the District Judge may, on "sufficient grounds" withdraw a case pending in a Village

Court and transfer it to such Court as may seem appropriate. There is no appeal against any judgment, decree or order of a Village Court in civil suits not exceeding K.200 in value but, on the application of a party concerned or of the People's Counsel, the District Judge may, "if he considers that it is contrary to justice," revise the decision; if, however, the value of the suit exceeds K.200 an appeal lies to the District Judge whose decision is final.

It will be noted that in respect of civil cases as in criminal cases the ground for interfering with the order of a civil court is not that it is "contrary to law" but that it is "contrary to justice;" minor irregularities which have not in fact resulted in a miscarriage of justice are disregarded. But the procedure for the new Village Court appears much more complicated than that prescribed for the former Village Committee, and in view of the precautions against injustice given by the recourse, where necessary, to a Civil Judge, the former simple procedure would have seemed adequate. However, in actual practice in the village it is not improbable that the procedure will be simpler than is contemplated in the rules.

(c) Township and District Councils. As already mentioned, each Township and District Council is required to elect from among its members an Executive Committee for the performance of some of its functions, but there are certain matters that must be dealt with by the Council as a whole. Matters concerning the whole Council are the formulation of policy, the establishment of departments, the approval of the annual budget and transfer of funds from the budget head to another, the making of bye-laws, the approval of the annual report on its working and the annual statement of accounts to accompany the annual report, the levying of taxes, the appointment and control of its officials, the sanctioning of new works, the taking of action against members of the Council, the obtaining of sanction from the President of the Union for matters in which such sanction is required, and, in addition, any other matter which in the opinion of the Chairman should be laid before the Council. It is expected that within any one fiscal year two sessions of the Whole Council should ordinarily suffice; one for passing the budget and one for other miscellaneous business.

The Council distributes its work among several departments of which the General Department is under the charge of the Chairman of the Council, while other departments are allocated to individual members of the Executive Committee. The member allotted to each department is responsible to the Council for supervising the work of his department and for promoting cordial relations between departmental officials and the general public. For each District or Township Council, the Government appoints an Executive Officer who is head of the General Department and responsible for the supervision and co-ordination of the work of all the other departments. The intention is that this Executive Officer should enjoy much the same position and perform much the same functions as the former Deputy Commissioner, though without the magisterial functions and revenue which formerly occupied most of the time and attention of the Deputy Commissioner. For each District Council the Government appoints a People's Counsel who is head of the Judicial Department. Similarly for each of the other Departments, the Government appoints a departmental head. Thus for every branch of the work of a District or Township Council there is a non-official member of the committee working alongside an official expert appointed by the Government. The non-official member is responsible to the Council for seeing that effect

is given to the policy of the Council, and the departmental head is responsible for giving effect to its policy in accordance with the instructions of the non-official member. In effect the staff at the headquarters of a District or Township Council will be much the same as the district officials under the former system, and the Executive Officer will be in much the same relation to them as the former Deputy Commissioner was to the headquarters staff. But every officer of the Council, while responsible to the Council for giving effect to its policy in conjunction with the non-official member to whom his department is allotted, is responsible to his departmental superior for the satisfactory performance of work undertaken on behalf of the Council and for the careful use of funds.

This procedure should ensure a strict control over the performance of their functions by these councils. At the same time the Act provides that every local body may take such action as it may think fit for the promotion of local welfare, and the various departmental officials are intended to stimulate local interest and activity in respect of welfare within their particular spheres.

## CHAPTER IV. REGIONAL GOVERNMENT.

### 1. Preliminary Negotiations

The structure of the government in the frontier regions at the time of the Japanese invasion has already been described. On the occupation of Burma the eastern states remained directly under the Japanese military authorities, but, shortly after Burma was granted independence on 1 August, 1943, they were made over to the Ba Maw Government. They were then placed under the Minister for Home Affairs as High Commissioner for the Shan States, and an Assistant High Commissioner was appointed to take the place of both the former Superintendents. The administration, so far as it was effective, continued on much the same lines as before. A Central Karen Board, directly under the Adipati, was constituted under a Karen President to deal with Karen affairs and to promote amity between the Karens and Burmese. The Chin and Kachin regions lay along the battle front and were not under the effective control of the British, Burmans or Japanese.

On the restoration of British rule the policy with regard to the frontier regions was stated in the White Paper of May, 1945. "The administration of the Scheduled Area, that is the Shan States and the tribal areas in the mountainous fringes of the country, inhabited by peoples differing in language, social customs and degree of political development from the Burmans inhabiting the central area, would for the time being be subject to a special regime under the Governor until such time as their inhabitants signify their desire for some suitable form of amalgamation of their territories with Burma proper." <sup>1/</sup> A Director, Frontier Areas Administration, with headquarters in Rangoon, was appointed to have general charge over the Frontier regions, with two Deputy Directors, who were also Secretaries to Government, an Assistant Director and the usual Secretarial Staff. The Federated Shan States were placed under the charge of two Residents, as in 1925 before there was a separate Commissioner for the Shan States. This did away with the central executive of the Federated Shan States and with local control over federal departments. The Sawbwas therefore formed their own Executive Council which included representatives of the people. The other hill tracts were placed, as before, under the local Deputy Commissioners. Below the Residents there were about 40 Assistant Residents who were almost exclusively young European Officers recruited after the war.

The reversion to the former system of dividing the frontier areas from Burma was one of the points to which Burmans took exception. This came under discussion in the Conference of 1946-47 between the British Government and the delegation of the Burma Executive Council led by Aung San. As the outcome of this discussion the Aung San - Attlee Agreement of January 27, 1947, stated that the agreed objective of both parties was "to achieve the early unification of the Frontier Areas and Ministerial Burma with the free consent of the inhabitants", and that in the meantime, "the people of the Frontier Areas should in respect of subjects of common interest be closely associated with the Government of Burma in a manner acceptable to both parties." Accordingly the leaders and representatives of the Frontier Areas were to be invited to express their views as to the most acceptable form of association during the transition period; a Conference would then be held to discuss the best method of attaining early unification in

<sup>1/</sup> Burma, Statement of Policy by H.M.G. Cmd,6635, p. 11.

accordance with the views so expressed. A Committee of Enquiry was to be set up to examine the best method of associating the frontier peoples with the working out of a new Constitution for Burma; this Committee was to submit a report to the Governments of Burma and of the United Kingdom before the summoning of the Constituent Assembly.

In the following month, in pursuance of this arrangement, representatives of the Shans, Kachins, and Chins met members of the Burma Executive Council at Panglong, and agreed on a form of association for the transition period.

## 2. The Panglong Agreement.

In the Panglong Agreement of 1947 the terms of the association were set forth in the following statement. "A conference having been held at Panglong, attended by certain Members of the Executive Council of the Governor of Burma, all Sacphas and representatives of the Shan State, the Kachin Hills and the Chin Hills:

The Members of the Conference, believing that freedom will be more speedily achieved by the Shans, the Kachins and the Chins by their immediate co-operation with the Interim Burmese Government:

The Members of the Conference have accordingly, and without dissentients, agreed as follows:

(1) A representative of the Hill Peoples, selected by the Governor on the recommendation of representatives of the Supreme Council of the United Hill Peoples (SCHOUHP), shall be appointed a Counsellor to the Governor to deal with the Frontier Areas.

(2) The said Counsellor shall also be appointed a Member of the Governor's Executive Council, without portfolio, and the subject of Frontier Areas brought within the purview of the Executive Council by Constitutional Convention as in the case of Defence and External Affairs. The Counsellor for Frontier Areas shall be given executive authority by similar means.

(3) The said Counsellor shall be assisted by two Deputy Counsellors representing races of which he is not a member. While the two Deputy Counsellors should deal in the first instance with the affairs of their respective areas and the Counsellor with all the remaining parts of the Frontier Areas, they should by Constitutional Convention set on the principle of joint responsibility.

(4) While the Counsellor, in his capacity of Member of the Executive Council, will be the only representative of the Frontier Areas on the Council, the Deputy Counsellors shall be entitled to attend meetings of the Council when subjects pertaining to the Frontier Areas are discussed.

(5) Though the Governor's Executive Council will be augmented as agreed above, it will not operate in respect of the Frontier Areas in any manner which would deprive any portion of these Areas of the autonomy which it now enjoys in internal administration. Full autonomy in internal administration for the Frontier Areas is accepted in principle.

(6) Though the question of demarcating and establishing a separate Kachin State within a Unified Burma is one which must be relegated for decision by the Constituent Assembly, it is agreed that such a State is desirable. As a first step towards this end, the Counsellor for Frontier Areas and the Deputy Counsellors shall be consulted in the administration of such areas in the Myitkyina and the Bhamo Districts as are Part II Scheduled Areas under the Government of Burma Act of 1935.

(7) Citizens of the Frontier Areas shall enjoy rights and privileges which are regarded as fundamental in democratic countries.

(8) The arrangements accepted in this Agreement are without prejudice to the financial autonomy now vested in the Federated Shan States.

(9) The arrangements accepted in this Agreement are without prejudice to the financial assistance which the Kachin Hills and the Chin Hills are entitled to receive from the revenue of Burma, and the Executive Council will examine with the Frontier Areas Counsellor and Deputy Counsellors the feasibility of adopting for the Kachin Hills and the Chin Hills financial arrangements similar to those between Burma and the Federated Shan States."

### 3. The Hill Peoples' Council.

Perhaps the most important fact about the Panglong Conference is that it provided an occasion for bringing the hill peoples together. Under Burmese rule they had all recognised severally the suzerainty of the Burmese Crown; under British rule they had all been ruled indirectly through their own chieftains by the British Government of Burma. But they had never had any common link beyond their common subjection to the same authority. The Supreme Council of the United Hill Peoples was formed in order to enable the Panglong Conference to be held and was a noteworthy step forward in the establishment of representative institutions among the frontier peoples. The immediate purpose of the Panglong Agreement was to devise a form of association during the transition period until some more permanent arrangement could be achieved. But it did much more than that. It laid down certain principles; that the frontier peoples should be entitled to fundamental democratic rights; that they should enjoy full autonomy in domestic affairs; and that they should be entitled to assistance from the revenues of Ministerial Burma.

But although the Panglong Conference went far towards establishing the principle of national unity for all the peoples of Burma within its natural geographical limits, this was still incomplete. The Karens of the Salween District and the Kayahs were not represented by delegates at Panglong and were not parties to the agreement. Other absentees were the Chins of the Arakan Hill Tracts and the Nagas and the Was. That was the situation when the Committee of Enquiry, postulated by the Aung San - Attlee Agreement, met, with Mr. D. R. Rees-Williams (now Lord Ogmore), as its Chairman.

### 4. The Rees-Williams Committee.

The Committee of Enquiry included four Burma members and Four Frontier Area Members. The four Burma members were, a member of the Executive Council (U Tin Tut, formerly of the Indian Civil Service), two members of the AFPFL and a member of the Karen Youth Organization; the frontier area

members were the Counsellor for the Frontier Areas (a leading Shan Sawbwa), and the two Deputy Counsellors (a Kachin and a Chin), and a representative of the Karen National Union. It met in Rangoon on March 18, and, after a comprehensive enquiry, including the hearing of representatives of all places or groups claiming or thought likely to have separate interests, the members signed a unanimous report on 24 April. The list of witnesses is instructive from the light it throws on modern administrative problems in the frontier region. The Shan witnesses included not only representatives of different parts of the Shan country but also representatives of the Shan Sawbwas, the Shan States Peoples' Freedom Congress and the "Burmanised Shans" of Homalin; the Kachin witnesses included the Army Kachins, the Frontier Constabulary Kachins, the Kachin Youth League and the Jungpaw, (i.e. Kachin) "National Modern Civilization Development Association;" the Chin witnesses included the Chin Pensioners' Association, and the Karen witnesses the Karen National Union, the United Karen Organization, and the Karen Youth Organization. These numerous groups suggest that administrative problems in the frontier region are complicated not only by territorial dispersion but by a diversity of political outlook throughout the whole region.

The primary function of the Committee was to enquire into and report upon the best method of associating the frontier peoples with the working out of the new Constitution. The Committee found that (with two insignificant exceptions) all the witnesses "expressed without hesitation the desire that representatives should take part in the work of the Constituent Assembly alongside the representatives of Burma proper," who, by the time that the Committee signed its report, had already been elected. The Committee recommended accordingly that the following areas should be represented in the Constituent Assembly: 1/

The Federated Shan States, including Kokang and Mongpai  
The Kachin Hills  
The Chin Hills with the Arakan Hill Tracts  
The Karen (now Kayah) States  
The Somra Tract  
The Salween District, and the Homalin Subdivision

The Committee however found it impossible to confine the examination of the witnesses strictly to its primary objective. To many of the witnesses "the question of participation in the work of the Constituent Assembly was inextricably intertwined with the question of the future of the frontier peoples under the new constitution, and they appeared to view the two questions as different facets of a single great problem." The Committee of Enquiry therefore felt it incumbent on them to offer some recommendations on this subject. In this part of their report the Committee envisage a picture of a Federal Union of Burma with the Shan and Kachin regions and possibly Karen as component States; the Karen Hill region probably, and the Chin Hill region possibly might be incorporated in Burma proper. The Committee noted also the desire of the Hill States for the fullest possible autonomy with a right to secede from the Union at any time. One item of particular interest is the assurance given by the Kachin witnesses that, if the part of the Kachin region, formerly under the Legislative Council and largely Burmanized, and even Indianized, should be united with the Part I

1/ Burma Frontier Areas Committee of Enquiry, Report. 1947, Cmd 7138, p. 18.

Areas to form the new State, they would willingly guarantee the rights and privileges of the non-Kachin peoples and freedom to retain their own customs. This appears to have been the origin of the arrangement in the Constitution that among the component States the Kachin State alone was excluded from the privilege of secession. The Committee also suggested amalgamations of various units that would "reduce the craziness of the patch-work quilt" presented by the former machinery of administration.

The Committee also submitted recommendations regarding the allocation of seats in the Constituent Assembly to the various territorial units of the Frontier Areas. Under the arrangement for the general elections Burma proper was to have 210 seats in the Assembly. On a population basis rigidly applied, the Frontier Areas would only be entitled to about 35 seats. But, taking into account the large extent of the Frontier Areas and the diversity of its peoples, the Committee suggested that 42 seats should be allotted to the Part I Areas in Schedule II, one seat to Homalin Subdivision, a Part II non-constituency area in the same schedule; and 2 seats to Karen, previously treated as outside Burma. Accordingly the Committee recommended the following distribution:

Federated Shan States (including Kokang and Mongpat	26 seats
Kachin Hills	7
Chin Hills (including the Arakan Hill Tracts)	6
Salween District	2
Somra Tract	1
Homalin Subdivision	1
Karen	2
Total	<u>45</u>

##### 5. Federation in the Assembly.

As soon as the general elections were over the leaders of the AFPFL, secure of their victory, set to work on drawing up for consideration by the Constituent Assembly an outline plan of the new Constitution. This was approved by a General Convention of the AFPFL, on May 27. Included in it were proposals relating to the territorial component units of the new State. 2/

Paragraph 2 defined the territories of the Union as follows:

"A. Such territories as were heretofore within British Burma and known as -

- (i) Ministerial Burma
- (ii) The Homalin Subdivision
- (iii) Singkaling Hkanti
- (iv) Thaungdut
- (v) The Somra Tract
- (vi) The Naga Hills
- (vii) The Salween District
- (viii) The Kanpetlet Subdivision, and
- (ix) The Arakan Hill Tracts

2/ Burma's Fight for Freedom, Rangoon, 1948, p. 49.

- B. The Federated Shan States (including Kohang and Mongpai)
- C. The Karen States
- D. The Kachin Hills, and
- E. The Chin Hills District (excluding the Kanpetlet Subdivision)"

Paragraph 3 set forth the requisites for autonomy, as follows:-

" (1) Such of the territories mentioned in B.C.D. and E possessing all or some of the following characteristics, namely -

- (i) a defined geographical area with a character of its own,
- (ii) Unity of language different from the Burmese,
- (iii) Unity of culture,
- (iv) Community of historical traditions,
- (v) Community of economic interests and a measure of economic self-sufficiency,
- (vi) a fairly large population, and
- (vii) the desire to maintain its distinct identity as a separate Unit,

shall possess the status of the "Union State," "Autonomous State" or "National Area" as may be determined by the Constituent Assembly and thereafter according to the law of the Constitution, and shall exercise all such powers and functions as may be vested in or assigned to them.

" (2) Such powers and functions shall be determined by mutual agreement after negotiation to be made by a Committee appointed by this Convention; the agreement arrived at on the part of the said Committee shall be subject to ratification by the Executive Government of the AFPFL."

Paragraph 7, reciting the rights of national minorities, with a special reference to the Karen, contained two clauses.

" (1) Such rights of National Minorities" as

- (i) human rights,
- (ii) national and cultural rights,
- (iii) freedom of association with cultural autonomy, and
- (iv) due representation in the legislature,

shall be guaranteed to a group of citizens who differ from the majority in race, language, culture and historic traditions, and form at least one-tenth of the population of the Unit concerned.

" (2) A Karen Affairs Council shall be constituted in order to aid and advise the Union Government on matters relating to the Karen; the composition of and the method of selection to the said Council shall be prescribed by law."

Paragraph 8 laid down that "all powers, other than those powers that may be specifically assigned to the 'Union State', 'Autonomous State' or 'National Area,' shall be vested in the 'Union of Burma,' and shall be exercisable by or on behalf of the organs of the Union of Burma established by the Constitution.

The first session of the Constituent Assembly was held on June 19. In addition to 210 members from Burma proper (of whom 24 represented the Karen community and 4 the Anglo-Burma community) there were 43 members representing the Frontier Areas, as recommended by the Rees-Williams Committee; the two seats allotted by that Committee to representatives of Karen had not yet been filled, but the Karen members arrived in time for the third and final session and agreed that Karen should enter the Union on the same terms as the Shan State. On 16 June Aung San moved a "directive Resolution condensing into seven points the fourteen points approved at the AFPFL Central Convention of May. The Constitution, based on a draft framed by a special drafting committee, was finally passed unanimously in the third session of the Assembly on 24 September.

#### 6. Federation in the Constitution: General Provisions.

The Constitution, as finally approved, recognized (Chapter 1) the Shan State, the Kachin State and Karen (subsequently Kayah) State as constituent units of the Union. Provision was also made (sections 180, 181) for the formation of a Karen State with the same status as the Shan State. This was to consist of the Karen State, the Salween District and other adjacent areas occupied by Karen, but it was only to come into existence "if the majority of the people living in these three areas and of the Karen in Burma outside these areas" should so desire; meanwhile the Salween District and adjacent area occupied by Karen were to constitute a Special Region to be known as Kaw-thu-lay. Similarly a Special Division was created for the Chins, comprising certain areas in the Chin Hills District and the Araker Hill Tracts (sections 196-198). In all these areas all the inhabitants legally qualified for citizenship are citizens of the Union of Burma; there is no citizenship of any of the constituent units as distinct from the citizenship of the Union (section 9).

Certain attributes are common to all the States. Most of these are repeated separately for each of the above major units in Chapter IX (154-200). For each State there is a State Council consisting of all the representatives of the State in the Parliament. For each State there is a Member of the Union Government, known as the Minister for the State concerned, who is appointed by the President on the nomination of the Prime Minister acting in consultation with the State Council and from among its members. The Minister so appointed is also the Head of the State. The Head of the State is the executive authority of the State and has charge of the administration, including all matters relating to the recruitment and discipline of the State civil services. The State Council elects, from among its members or otherwise, a State Minister or Ministers (the State Cabinet) to aid and advise the Head of the State. The Council also has certain legislative powers. Although the Parliament has general power to make laws for the whole or any part of the Union certain matters are reserved for the State Councils in the Third Schedule to the Constitution (See Appendix 1). This Schedule consists of two lists. List I enumerates subjects that shall not be deemed within the competence of the State Councils, but this is for the sake of clarity without prejudice to the generality of the powers of the Parliament; List II enumerates the matters which are exclusively reserved for legislation by the State Councils (section 92). Legislation by the State Council within the limits of its competence is binding on the Head of the State. In all other matters the Head of the State is required to consult the State Council but is not

bound by its advice. He is particularly directed to frame and present for approval by the State Council an annual budget of probable revenue and expenditure. Subject to the provisions of the Constitution, all matters relating to the powers and duties of the Head of the State or the State Council and of the State Ministers and of their relations to one another and to the Union Government must be determined by law.

In regard to finance each State is expected to depend very largely on its own resources. Schedule IV of the Constitution gives a list of the revenues which belong to the State in which or by which they are raised; all revenues not so assigned are credited to the Union (see Appendix B). Formerly the Shan States were practically self-supporting but the other Frontier Areas have always cost more than they brought in. Now, with a great increase in Government activities and consequently a corresponding increase in administrative charges, the States could not pay their way without assistance. The charges for the Ministers representing the various States in the Union Government, their Parliamentary Secretaries and establishment are debited to the central revenues, so also are the charges for the Secretariat department for each of the State Ministries, but these may properly be considered central charges. For the relief of charges constitutionally debitible to the States, the Parliament annually allots a lump sum, which is distributed among the States by a State Aid Council that includes representatives of all the States, though it seems that the advice of the Finance and Revenue Ministry, which has a strong voice in fixing the amount available for distribution, is usually received with respectful attention. In the budget for 1955-56 the total sum allocated for contributions to State Governments was Ks.26,200,000, of which 13.7 million went to the Shan State, 7.5 million to the Kachin State, 3.0 million to the Karen State and 2.0 million to the Kayah State.

One notable feature of the Constitution is the right of the States to secede at any time after ten years from the date on which the Constitution came into operation. This is dealt with in Chapter X, which does not however apply to the Kachin State (section 178). Another facility granted to all the States is a provision which allows a State Council to recommend to the Parliament the passing of a law relating to any matter beyond the competence of the Council (sections 155, 158, 184). Provision is made also for any two or more State Councils to join together in inviting the Parliament to pass an Act for regulating a matter with which, if co-operation were not desirable, each Council would be competent to deal (section 95).

#### 7. The Shan State. (Chapter IX, 164 to 165)

The United Hill Peoples' Council, which came into existence in 1948, included 66 members of whom half were sawbwas and half were chosen, though without any formal election, as representatives of the people. The Hill Council deputed 23 members to the Constituent Assembly; these included 10 sawbwas' representatives, 2 Shan State Kachins, and 1 representative from Kokang State.

The Shan State was created by the Constitution to comprise all the territories previously known as the Federated Shan States and the Wa States. Pending the suppression of the Constituent Assembly by a duly elected Parliament, all the members of the Constituent Assembly sat together in a Provisional Shan States Council. In the Chamber of Nationalities the Shan

State was allotted 25 seats, and it also had 25 seats in the Chamber of Deputies. The members of the Chamber of Nationalities were elected by the Sawbwas (Saobpas) from among themselves; the members of the Chamber of Deputies are elected by the people to represent constituencies formed under the Parliamentary Election Act. The Sawbwas are not eligible for membership of the Chamber of Deputies. 3/

All the members of both Chambers form the State Council which is the legislature for the Shan State. It may enact for the Shan State any measure within the scope of the State Legislative List (Appendix A). A Bill passed by the State Council is submitted to the President who must sign it within one month unless, in his discretion, he refers it to the Supreme Court for decision as to whether it contains any matter repugnant to the Constitution; if by a majority the Supreme Court finds that any provision is repugnant to the Constitution, the President must return the Bill to the State Council and may not sign it until the necessary amendments have been made. The State Council may recommend to the Parliament the passing of any law relating to any matter on which the Council is not competent to legislate. The meetings of the State Council have always been held in Taunggyi, the capital of the Shan State, where a suitable Council Hall has now been erected.

The Government of the Shan States is vested in the Head of the State acting with the State Council. The Prime Minister of the Union, in consultation with the Shan State Council nominates a member of the Shan State Council as the Minister for the Shan State in the Union Government. The Minister is also the Head of the State. The State Council at its first meeting after a general election elects a Cabinet of State Ministers who ordinarily are, but need not be, members of the State Council; on the formation of a new Government after the general elections of 1956 the Cabinet consisted of a Chairman, Vice-Chairman and five Ministers; the Chairman was a Sawbwa and the Vice-Chairman a commoner. The Head of the State is bound to consult the State Council on all matters relating to the State; thus he is in effect the link between the Union Government and the State. In all matters with respect to which the State Council has power to make laws he must act in accordance with the decisions of the Council. The Head of the State is in general charge of the administration and in particular his authority covers all matters relating to recruitment and discipline in connection with the State services.

The Head of the State is responsible for the preparation of estimates for receipts and expenditure for each financial year. He must submit them for consideration by the State Council, which has the power to approve the budget, subject to any conditions imposed by the Union Parliament with regard to its contributions to the State. Control over the observance of such conditions is effected by the provision that the State Budget be incorporated in the Union Budget. The Head of the State is also required to lay before the State Council in each ordinary session, an account of his

3/ As mentioned above, a draft Bill has been published in the official Gazette for an amendment of the Constitution by the cancellation of section 154 (2). The effect will be to cancel the privilege of the Sawbwas of electing the Shan State representatives in the Chamber of Nationalities, and to make them eligible for membership of the Chamber of Deputies.

work, and a report on all matters relating to the State, together with recommendations as to measures that he considers desirable.

The business of the State is transacted by departments which are distributed among the Ministries. In the State Government formed after the general elections of 1956 the Vice-Chairman was in charge of Home Affairs, and the other Ministries dealt respectively with National Solidarity and Information; Education and Health; Finance and Revenue; Land utilization; and Public Works and Irrigation. Of these Ministers three were sawbwas.

The Union Minister for the State has an office in the Secretariat in Rangoon, with a Secretary to the Government for the Shan State Ministry and such Deputy and Assistant Secretaries as may be required. There is also a State Secretariat at Taunggyi, with Deputy and Assistant Secretaries, one of the Deputy Secretaries to the Shan State Government being also ex officio Secretary to the State Council.

The party grouping in the Shan State is obscure. To some extent it follows ethnic lines. The following table shows the racial classification assumed by the Rees-Williams Committee of Enquiry.

(Figures in thousands.)

Racial Group	Northern Shan States	Southern Shan States	Total
Shan and Lolo Moso	334	515	849
Palaung-wa	220	51	271
Burma Group	53	153	206
Karen Group	-	192	192
Kachin	71	-	71
Indian, Chinese, etc.	94	18	112

As the above table shows, there is a difference in racial constitution between the Northern and Southern States; even members of the same group in different parts of each tract have particularist tendencies. In almost every group there is a further cleavage on ideological lines between old and young, mediaeval or feudal and modern or democratic. The Committee of Enquiry heard witnesses of the United Hill Peoples' Council, and of the Sawbwas and of the People's Freedom Congress. The primary interest of the AFPFL leaders is in strengthening the ties between Shan and Burman and this necessitates co-operation with the Sawbwas, but their democratic sympathies link them to the modernists. In the Constituent Assembly the influence of the Sawbwas was the stronger. But in the Parliament the seat of power lies in the Chamber of Deputies in which the Sawbwas are not represented, though the modern group allege that, in virtue of their influence, they are indirectly represented among the Deputies. In the general elections of 1956 there was 60 candidates for the 25 seats. Of these 60 candidates 25 stood on behalf of the Hill Peoples' Union, the organization patronised by the Sawbwas and supported by the AFPFL; 10 stood for the Shan States Peasants' Organization opposed to the Sawbwas but associated with the AFPFL; 8 for the United Pa-o Organization in opposition to the AFPFL, 7 for the Northern Shans Association and 10 were Independents. Of the elected members it seems that only two members from the Shan States

took their seats on the opposition side. There is considerable pressure for the Sawbwas to surrender their former privileges and they have agreed to do so on payment of compensation, but negotiations on this point are not yet completed.

Under the Constitution the Shan State has the right of secession at any time after ten years from the date on which the Constitution was formed. There seems to be very little feeling in favour of separation and, quite apart from sentiment, financial considerations will carry weight. The Shan State Federal Fund, created in 1922, was maintained by contributions from the States and from the funds of Burma, and by receipts from minerals and forests. After the separation of Burma from India in 1937 and the conferment of greater autonomy on Ministerial Burma, the contribution from Burma was calculated on the basis of what was due to the States on account of revenue accruing to Burma from within the States. On this basis the Shan States were financially self-supporting. But the Fund has been in abeyance since 1941 and, from the date of independence, the Shan State has been in receipt of contributions from a common fund voted annually by the Parliament after negotiations between the States and the Finance and Revenue Ministry. On the other hand, the much greater activity on the part of the State Government for economic development and the promotion of Welfare has greatly increased the cost of administration. It is doubtful how far the Shan State could provide the present amenities if left to its own resources.

The machinery of government in the Shan State, as in Burma proper consists of a territorial administrative service alongside which there are departmental officers under their own departmental head at the headquarters of the State. A Third District, the Eastern Shan State, under a separate Resident was created in 1951; it consists of four sub-states; the Northern Wa State, the Southern Wa and Manglun State, Kokang State and Kengtung State, each under an Assistant Resident. A plan for a general revision of the administrative machinery was drawn up in 1954 and submitted to the Union Government for criticism and advice. The territorial distribution of officials (and monthly salaries) as finally approved in 1956 is shown below.

Secretary to the Shan States Government	Ks. 1,600
5 Residents North-eastern Shan States (Lashio) Northeast Special District (Hopang)	
Eastern Shan State (Loimwe)	
Loilem District (Loimwe)	
Taunggyi District (Taunggyi)	Ks. 1,000 to 1,400
20 Assistant Residents, Senior Branch, plus 3 for Leave Reserve	Ks. 350 to 700
20 Assistant Residents, Junior Branch	Ks. 200 to 300

The Senior Branch officials correspond to those of the Burma Civil Service and the Junior Branch correspond to those of the Subordinate Service in Burma proper, and hold the appointments of Township Officer, Headquarters Magistrate, Treasury Officer or Additional Magistrate. Thus the administrative machinery of the Shan State is now closely parallel to that of Burma proper. There are three Municipalities at Taunggyi, Kalaw and Loilem. Elsewhere experiments are being conducted in the introduction of village councils.

Alongside these officers in charge of general administration there are, as in Burma proper, departmental officials. Among these departments the most completely organized is the Education Department; there is a Principal Education Officer (who is also in charge of education in Kayah); under him there are two Assistant Inspectors with headquarters at Lashio and Taunggyi, and 8 Deputy Inspectors.

#### 8. The Kachin State. (Section 166 to 179).

The creation of a Kachin State was complicated by the fact that under the 1937 constitution some areas fell under part I of the Second Schedule and some under Part II; and of the areas falling under Part II some were "constituency areas" represented in the Legislative Council, and some were "non-constituency areas." The people in the constituency areas, largely Burmese or Shan-Burmese, with Indian and Chinese traders, were reluctant to forfeit their privilege of representation in Rangoon. It was impossible however to create a viable State without including them. The dilemma was solved by assigning them to the Kachin State with a guarantee that half the seats of the Kachin State in the Chamber of Nationalities should be allotted to Non-Kachins and the other half reserved for Kachins; as a further protection the Kachin State was denied the option of secession from the Union, and no Bill prejudicially affecting any acknowledged right or privilege of the Kachins or the non-Kachins of the Kachin State may be deemed to have been passed by the Council unless the majority of the members of the community so affected vote in favour of it.

In the Chamber of Nationalities 12 seats were allotted to the Kachin State and, on the basis of population, 7 seats were allotted to it in the Chamber of Deputies. These 19 members constitute the Kachin State Council. The provisions with regard to the appointment of a Minister and Head of the State, his powers and responsibilities and his relation to the State Council are the same in their general effect as those relating to the Shan State. The chief difference in regard to the Government is that there are fewer Ministers and the sphere of action of each Minister is correspondingly increased. At present three State Ministers deal respectively with Education; with Public Health and Social Services; and with Public Works, Agriculture and Forests.

The main conflict of interest within the State is between the inhabitants of the more advanced lowlands to those of the tribal hills, but political conflict ran chiefly on the personal ambitions of rival chieftains. The AFPFL seems to be more strongly represented in the Kachin State than in the Shan State, but its relations with the followers of the rival chieftains are ambiguous. There has not yet been any drastic reorganization of the administrative machinery, which carries on along much the same lines as before; the local chieftains conduct the administration with the help of civil service officials as Assistant Residents.

#### 9. The Karen State. (Section 180, 181).

The creation of a State for the Karens presented difficulties that did not exist in the case of other ethnic minorities. Among these minorities the Karen group was the largest. But it was by no means homogeneous and it was widely scattered over large areas both in the hills and in the plains, and only in one comparatively small locality did the Karens form the

largest group among the local population. Before deciding to establish a separate Karen State for the area where Karen were in a majority, it was necessary to take into account the views of Karen outside that area. Also various circumstances had given rise to strong antipathy towards the Burmese among a section of the Karen population and had impaired friendly relations between the Karen and the Burmese. Under British rule Karen particularism had been encouraged by the grant of separate communal representation to the Karen. Some Karen had no desire for a separate Karen State; probably most Karen wanted a separate State within the Union, but some wanted a Separate State outside the Union. In the Constituent Assembly 24 seats were allocated to Karen, elected on a communal basis.

At that time there was no very sharp distinction in the minds of most people between the Karen and the Karen, or Red Karen. The Constitution provided a separate State for Karen on the assumption that this would ultimately be enlarged by the inclusion of adjacent Karen areas in a Karen State which should have the same status as the Shan State. Pending the constitution of the Karen State, the Salween District together with the adjacent Karen areas was to be made a Special Region to be known as Kawthulay. Provision was made also for the creation of a Karen Affairs Council to consist of all the members of the Chamber of Deputies representing Karen, together with not more than five members co-opted by them from among the Karen representatives in the Chamber of Nationalities. The Prime Minister, acting in consultation with the Karen Affairs Council, was to nominate from among their members a Minister for Karen affairs. The function and responsibilities of the Minister for Karen Affairs were broadly similar to those of the Head of the State in other cases, but the Karen Affairs Council had not the legislative powers of a State Council.

In October, 1948, the Government appointed a Regional Autonomy Enquiry Commission under the Chief Justice U Ba U (subsequently President) to submit recommendations on the Karen problem and in February, 1949, the Commission recommended the constitution of a separate Karen State, to be demarcated subsequently in accordance with the majority wishes of the people residing within the area concerned; whether the Karen should merge with the Karen State was a matter that the people residing within Karen should decide. By this time, however, the extreme section of the Karen had decided to venture on rebellion and they were joined by a considerable proportion of the Karen community, including some of those leaders who had advised against it. The rebellion hindered further progress, and matters concerning the Karen in general were left to the Minister for Karen Affairs, who was in charge of a Directorate of Karen Affairs and a Karen Education Department. The Directorate of Karen Affairs had a staff of about 50 Karen Affairs Officers distributed over fourteen districts in Lower Burma in order to promote better relations between the Government and the Karen, and between the Karen and their neighbours. The delta region had always been the stronghold of Karen education, but the immediate effect of the rebellion was the almost total elimination of the Karen village schools. With a view to repairing this disaster the Government appointed a Karen Chief Education Officer and a staff to assist in rebuilding the numerous schools that had been burned down, and to bringing back the teachers whom the rebellion had dispersed.

A first step towards the creation of a Karen State was taken in October, 1951, with the amendment of sections 180, 181, of the Constitution

by Act LXII of 1951 which transformed the Salween District into the nucleus of a Karen State. The first meeting of the Karen State Council was held in March, 1952. In September, 1952, an Amendment Act (XIV of 1952) extended the Karen State by the inclusion of five townships adjacent to the Salween District. With the passage of this Act the Karen State Government came into being with its own Secretariat and State Council. As a corollary, however, the education of the Karens in Burma proper outside the new Karen State devolved upon the Ministry of Education. In the Karen State Government thus formed there were six State Ministries. But the Act did not empower the Karen State Council to administer the area composing the Karen State; this was to be deferred until law and order were sufficiently restored. Meanwhile it was the function of the State Government to assist in the restoration of law and order, and to make preparations for taking over full responsibility as soon as possible. Two of the Karen Ministers, however, set up headquarters in Moulmein, close to the chief centre of disturbance, and a Special Commissioner was posted to Moulmein to help them. Under the Pyidawtha (National Welfare) plan of 1952 a discretionary grant of K.50,000 was allotted to each township in the Karen region, as to townships elsewhere, and although the State Government, not yet being vested with administrative powers, could not take an active part in the implementation of the scheme, it provided the requisite funds and gave indirect encouragement. A further step was taken in 1954 when the President issued a notification that, with effect from June 1, full powers of administration in three of the townships were transferred to the Karen State Government. This date accordingly marks the birth of the Karen State as a fully autonomous constituent unit in the Union of Burma.

Although the Karens are the most numerous of the minority peoples, only about one-third of them live within the area forming the Karen State. Under the Constitution as amended the Karen State has been allotted 15 seats in the Chamber of Nationalities. In the distribution of seats on the basis of population for the general elections of 1956 it received seven seats in the Chamber of Deputies. The AFPFL was the only political organization that took part in the elections, and although for most of the seats there were independent candidates, few of these were successful and even these few associated themselves with the AFPFL in the Parliament. The member of the Union Government for the Karen State is also the Head of the State, and his relations with the State Council are the same as in the Shan State. The administrative machine has not yet been re-organised and continues on the same lines as before, with such local readjustments as the prolonged disturbance and confusion have necessitated.

#### 10. The Kayah State. (Section 182 to 195)

The total area of Kayah is less than 5,000 square miles and the population, though never exactly enumerated, is only about 70,000. Racially it is very mixed, with a preponderance of Taungthus who though known to the Burmans as Red Karens, have no connection with the Karen either in racial origin or in language. Apart from political supervision by the Superintendent of the Southern Shan States, it was formerly left to go its own way under the local chieftains and it is one of the most backward regions in the Union.

The Constitution provided for the merging of Karenni in the Karen State. But during the insurrection the militant Karen rebels invaded Karenni and

for a time occupied part of it. This aroused so much ill-feeling towards the Karen among the local inhabitants that they demanded a separate State and that their name should be changed from Karen to Kayah. Effect to their wishes was given in the Constitution Amendment Act (LXII) of 1951. The new Kayah State was officially inaugurated in January 1952 with its capital at Loikaw. At the same time there was another change. The Constitution provided for the accession of Mongpai State, formerly one of the Federated Shan States, to Karen if the people should so desire. As part of the general re-settlement of the region after the expulsion of the Karen rebel forces, the administration of the Mongpai State was taken over by the Kayah Government, although the amalgamation was not legally ratified by a plebiscite. It was not however until November 1953 that the rebels were finally cleared out of the important Mawchi Mines area.

Under the Constitution the Kayah State was allotted three seats in the Chamber of Deputies to be filled by the three chieftains of the local sub-states. In the distribution of seats on the basis of population for the general elections of 1956 the Kayah State was allotted two seats in the Chamber of Deputies. These five members of the two Chambers constitute the Kayah State Council. The Minister for the Kayah State in the Union Government is also Head of the State and there are only three State Ministers. The administration is carried on by a Resident with the help of three Assistant Residents together with the local sawbwas, and subordinate officials, known as ne-oks, to assist the sawbwas.

#### 11. The Chin Special Division. (Section 196 to 198).

The representative of the Chins left the Rees-Williams Committee in some doubt as to whether they would prefer a Federated State or amalgamation with Ministerial Burma, though they stipulated that in the latter event the chieftains would still be allowed to administer their tracts in accordance with tribal customs and traditions. In pursuance of the Panglong Agreement the Chins sent seven representatives to the Constituent Assembly.

The outcome of the discussions in the Constituent Assembly was the provision in the Constitution for a Chin Special Division which, although included in Burma proper, should have certain of the attributes of a separate State. The Constitution provided that eight seats in the Chamber of Nationalities should be filled by representatives from the Special Division of the Chins. In the distribution of seats for the Chamber of Deputies in 1956 the Chins were allotted six seats. The members representing the Chins in the two Chambers compose the Chin Affairs Council. The Prime Minister, acting in consultation with the Chin Affairs Council, nominates one member of the Council to be the Minister for Chin Affairs in the Union Government. The functions of the Minister for Chin Affairs are much the same as those of the Head of the State in other regions, but he is not the Head of the State as there is no Chin State. In this connection, however, one point should be noted. In the states, education is one of the subjects included in the State Legislative list. In the Chin Special Division the Minister for Chin Affairs is especially charged with the superintendence, direction and control of all matters relating to schools and cultural institutions. This has the practical effect of conferring autonomy on the Chins in educational and cultural affairs, so that they are in much the same position in this matter as the States.

No positive responsibilities are placed on the Chin Affairs Council in the Constitution except that it is required to "aid and advise the Minister in the discharge of his duties." The AFPFL is the only political organisation extensively represented in the Chin Special Division, but local politics, both inside and outside the AFPFL organization, are largely a matter of personal rivalry between the chieftains.

In the Chin Special Division there has been a more determined attempt to modernise the administrative system than in most of the other hill regions. By the Chin Special Division Act (XLIX) of 1948 the former system of indirect administration through hereditary chieftains and headmen was abolished. There are now two Districts with five subdivisions. These are divided into Circles and Villages under elected headmen and councils. The system appears to be working satisfactorily, and, on the expiry of the term of office of the councils elected in 1948, new councils were elected in 1952. Alongside this territorial administration there are departmental establishments under the Minister for Chin Affairs. For each District there is an Inspector of Schools with a Deputy Inspector for each Sub-division. In the Public Works Department there is an Executive Engineer in charge of the whole Division with an Assistant Engineer for each District. The Co-operative Credit Department is strongly represented, but lack of funds has delayed the creation of an Agricultural Department. Thus in the Chin Hills, even more than elsewhere, the new administrative machinery is modelled on that set up in Burma during the early days of British rule.

CHAPTER V. POST MORTEM

Davy I beseech you, sir, to countenance William Visor of Woncot against Clement Perkes o' the hill.

Shallow There is many complaints, Davy, against that Visor; that Visor is an arrant knave, on my knowledge.

Davy I grant your worship that he is a knave, sir; but yet, God forbid, sir, but a knave should have some countenance at his friend's request. An honest man, sir, is able to speak for himself, when a knave is not. I have served your worship truly, sir, this eight years; and if I cannot once or twice in a quarter bear out a knave against an honest man, I have but very little credit with your worship. The knave is my honest friend, sir; therefore, I beseech your worship, let him be countenanced.

Shallow Go to; I say he shall have no wrong.

II Henry IV. Act V, Sc.i.

Cassius That you have wrong'd me doth appear in this;  
You have condemn'd and noted Lucius Pella  
For taking bribes here of the Sardians;  
Wherein my letter, praying on his side,  
Because I knew the man, were slighted off.

Brutus You wrong'd yourself to write in such a case.

Cassius In such a time as this it is not meet  
That every nice offence should have his comment.

Julius Caesar. Act IV, Sc.iii.

The above quotations may be recognized as a not inappropriate pendant to the foregoing account of how the machinery of government in Burma functioned, or was intended to function, in 1956. And we can perhaps understand the situation in 1956 better if we recall the situation in 1946. For this purpose it may be permissible to repeat an analysis of the situation written ten years ago, when Britain had just granted Burma independence.

"On both parts this may seem bold even to the point of rashness. Some contend that we have been too ready to throw off the responsibilities of government and Burmans over-ready to assume them. It is a tumbled house that they inherit, and there is urgent need to repair the damage, moral and material, inflicted on Burma in a war during which it was twice invaded...Despite the general inexperience of Burmans in modern industry and commerce, their new leaders must enable Burma, so far as national interest allows, to make a due contribution to world welfare by the

development of its resources. Moreover, in a country where the tradition of military service has long been suffered to decay, they must train the people to defend their freedom. Now also it will fall on them to deal with problems long-standing and hitherto insoluble; to adapt western institutions to an eastern people, provide remedies for agricultural debt and land alienation, reduce litigation and crime to healthy proportions, restore order among the Buddhist clergy, and purify the administration of corruption. In a troubled world, though less acquainted with affairs than their old rulers, they face a situation far more difficult. In these circumstances it is impossible to contemplate the future without misgivings, and we may well regret that in the past more was not done to equip the people and their leaders for the responsibilities of independence."

It was the AFPFL which achieved independence, and ever since then it has governed Burma. Now, to all appearance, it has died quite suddenly. Was it murder, or suicide, or death from natural causes? A post mortem may be instructive. This demands some reconsideration of the constitution of the AFPFL and of the conditions under which it had to work but, even if it involves some repetition of what has already been said, it may be worth attempting.

The basic principle of British policy was economic freedom subject only to the rule of law. Economic freedom built up an unstable economic system in which industry and foreign trade were directed, managed and operated by Europeans, Indians and Chinese, with much of the internal trade in imported goods also in Indian hands, while Burman economic activities were restricted almost exclusively to agriculture. The war and Japanese occupation devastated the material resources of Burma and shattered the unstable economic fabric, leaving Burma not only impoverished and destitute of capital equipment but also without the human resources to repair the damage. Absorption in the economic apparatus of the modern world had transformed the environment of social life and demanded a new social discipline to reinforce or replace the custom which had previously been a sufficient guarantee of social welfare; but the care for social welfare had been disregarded. Even the wealthier Burmans educated in western schools had never been brought into effective contact with the cultural aspects of western civilisation and, just as there were no Burman manufacturers or merchants, there were practically no Burman engineers or doctors, because the economic demand for these had been met by Europeans, Indians and Chinese; for the same reason there were few who had been trained in modern science or could teach it. The rule of law prevailed or, rather, the rule of lawyers. Every one was free to pursue his individual material interest subject to the risk of legal penalty. But "of what avail are forms of law in default of social order?". The natural consequence was social disintegration of which the most obvious symptom was the growth of crime that the law was unable to repress. The war and the Japanese occupation carried social disintegration a stage further, and the new Government of independent Burma, with no trained army to suppress lawlessness, was barely able to hold its own against the forces making for anarchy.

Yet in this precarious situation the new leaders had to face the task of creating a national society, held together by the ties of social order instead of merely by the machinery of law and incorporating an economic structure on a basis more stable than economic freedom. Burmans

in general believed that the magic of independence would bring down showers of gold and silver, and they looked for this at once. The leaders, like the people, lacked personal experience in industry and business, and had little or no acquaintance with the modern world outside Burma. Few, if any, appreciated the magnitude of the task that they had undertaken and they looked for immediate results. In some matters the situation necessitated speedy action, or a show of action, to prevent defection to Communist critics. Foreign powers, who for various reasons wanted to restore and increase the productive capacity of Burma, encouraged them to expand their activities in every possible (and sometimes impossible) direction. Yet almost their sole assets were optimism and enthusiasm and the general belief in their good will and ability to promote the national welfare.

The machinery at their disposal consisted of what remained of the former administrative staff after the exodus of almost all the senior and experienced officials. The staff, the traditions of the service, and the official routine and customary procedure had taken shape at a time when the maintenance of law and order was regarded as the main, if not the sole, function of government; through subsequent accretions it had become more cumbrous and less efficient, but had still served well enough for Burma as a business concern in which business was left to business men. Now it had to be used for a very different purpose, as the mainspring of a dynamic process, the creation of a new social order. The obvious and perhaps the only way of adapting the machinery to its innumerable new functions was to expand it with new departments and services, together with semi-official organisations for such functions as were unsuitable for departmental operation. For the administration of these new services and organisations they had to recruit what men they could as best they could. From a recent official communique it appears that by the end of 1957, only ten years after the attainment of independence, there were 32 ministries, 83 departments, and directorates, 53 boards and corporations, 16 councils and commissions, and 3 committees. There were 4,059 gazetted officers and 169,384 non-gazetted employees in the ministries and departments, together with over 100,000 employees in the various semi-governmental organisations. There was one government employee for every 58 head of the population as against one to every 45,000 in Bengal and one to 58,000 in Hyderabad. <sup>1/</sup> (How far these figures are strictly comparable is uncertain.) There were also some hundreds of State scholars of whom many had been unable to find suitable employment on their return from study abroad. In addition to the army of government employees the numerous committees in every district and township and in many villages comprised some men who expected tangible remuneration for their gratuitous public service. Every new job allowed of scope for jobbery -- if not robbery. It is easy to condemn the system, but not so easy to say, given the circumstances, what else could have been done where so little had been attempted to equip the people and their leaders for the realities of independence.

One could reasonably expect that in due time many of these ventures would be fruitful, but no one who understood the situation could reasonably expect that factories managed by inexperienced directors and operated by technicians fresh from school, with labour accustomed only to the seasonal

<sup>1/</sup> The Guardian (daily), Rangoon, April 5 and 23, 1958.

discipline of agriculture and not yet broken in to a daily industrial routine, could function efficiently without a period of tribulation, or could look for the smooth working of hastily improvised organisations to impose on the people an unaccustomed social discipline for the sake of welfare that many of them did not want. Where so many people expected so much so soon, disappointment and frustration were inevitable, and naturally weakened the confidence of the people in the government.

Take a simple illustration: few Burmans understood that until production could be raised, consumption must be cut. The feature of the economic system which chiefly concerned most people was the exchange of Burma rice for foreign piece-goods. Formerly every one had been free to buy as much clothing as he could afford. Now there were less piece-goods for a larger population, but not many Burmans realized that they must stint on clothing until they could export more rice. Still less did they realize that, with a restricted supply, the price of piece-goods in Burma was governed by the local demand and had no relation to the cost in the country of origin, leaving an abnormal profit to the importers. The general welfare demanded restrictions on imports, prices and profits, raising numerous difficult problems which were aggravated by the desire (and, in the interest of social and economic stability, the necessity) to transfer the control and conduct of foreign trade from foreigners to nationals and from nationals of foreign origin to those of local descent. Restrictions, however wise and necessary, could not but excite resentment which naturally all those who stood to gain by the removal of restrictions tended to foster by emphasizing and exaggerating the inconvenience which they occasioned. At the same time many who clamoured against restrictions on their own activities were pressing for more and closer restrictions upon others. Similarly, it was urgently necessary to redistribute the large areas of land that under the rule of law had passed to absentee and foreign owners, and to transform the rural proletariat into a stable peasantry. And it was necessary to reorganize the machinery of local government along lines appropriate to circumstances and the national temperament. The difficulties in these and in many other problems were aggravated by the general demand, and the necessity, for some kind of makeshift solution.

In these circumstances the roseate hues of the early dawn of independence faded, and no government, however wise its counsels and scrupulous its conduct of affairs, could have retained its initial popularity. It was natural and justifiable that the Government should entrust the conduct of its plans to those who would support it and at least profess belief in its plans, or, in other words, to partisans of the AFPFL. But in Burma, as remarked by U Ba Swe, in his Guide to Socialism, politics had long come to be regarded as "a career of grabbing office in District Councils, Municipalities and the Houses of Legislature." Many of its partisans looked for jobs without any very firm belief in the Government or its plans, and with little thought of public service. Throughout the whole process of reconstruction there were innumerable opportunities for pickings and perquisites. Many, probably the great majority, among the employees of government and the semi-official organisations and among the unofficial members of the various local bodies, honestly desired to render public service, but white ants would creep in, and their activities and the consequent damage were exaggerated by those who suffered from their deprivations, and still more vociferously by those who wanted their jobs. The wonder is, not that the AFPFL finally collapsed, but that for ten years it

guided the country through so many and so great dangers without a catastrophe. The explanation of its success and failure must lie partly in its personnel and composition.

Many of the leaders of the AFPFL first made their appearance in public life, together with some of their leading opponents, in a strike in the University in 1936 which became an incident of national importance. It originated in the expulsion of Aung San followed by the expulsion of U Nu, then President of the Students' Union and subsequently President of the Strike Committee. U Nu, who had taken his degree some years earlier had returned to the University to study law, and was about six years older than most of the students, by whom he was already regarded with affection and respect on account of his character, eloquence and seniority. Then followed the creation by Thakin Mya of the All Burma Peasants' Organisation (ABPO) in reaction against foreign control over the agricultural economy. Shortly afterwards U Ba Swe played a leading part in a strike on the oil fields which gave birth to the Burma Trades Union Congress (BTUC). From the first days of the war U Kyaw Nyein took the lead in organising a resistance movement, first against the Japanese and subsequently against the British re-occupation. Aung San was in command of the Burma forces under the Japanese, and U Nu became, even if reluctantly, a member of U Ba Maw's Japanese-sponsored government but used his position and influence to assist and shelter the revolutionaries. Most of the other leaders formed the hard core of the People's Revolutionary Party which grew out of the resistance movement.

When Aung San decided that the time was approaching for an organised rising against the Japanese, he obtained the cooperation of the leaders of the Revolutionary Party and the mass organisations under their control, which, together with other nationalist elements, he welded together in the Anti-fascist Organisation (AFO) subsequently re-named the Anti-fascist People's Freedom League (AFPFL). When the Communists formed a distinct party and then broke with Aung San, most of the remaining leaders of the resistance movements began to call themselves Socialists and set about forming a Socialist Party, choosing as their President Thakin Mya, the founder of the ABPO which by this time he had handed over to Thakin Tin. For Aung San the AFPFL represented a single national front, and he was reluctant to identify it with any one political formula and averse from recognizing distinct political parties within the League, so that the Socialist Party remained more or less submerged. The assassination of Aung San left U Nu as the acknowledged and respected head of the AFPFL, but he shared and inherited the unwillingness of Aung San to recognize the Socialists as a separate party within the common nationalist movement which the AFPFL was intended to represent. He never became a member of the inner group of Socialist leaders who controlled the mass organisations on which the AFPFL so largely depended for popular support throughout the country. On the other hand, among the Socialists, despite their veneration for U Nu from college days and their gratitude for his protection against the Japanese, there was a latent feeling that he was not really one of them because he had not fully shared the perils and hardships of the resistance movement nor contributed in sweat and blood to the creation of the AFPFL which they tended to regard as peculiarly their own child.

Aung San had come to the front as a military leader. On the return of the British the Burmese forces were disbanded. Aung San recognized the political dangers of turning ex-guerillas loose upon the country and proposed to organize them for social and economic re-habilitation. He also needed a reserve to strengthen his hands in the negotiations with the British. Accordingly, out of the remnants of the Burmese army together with a preponderance of new recruits he created for this dual purpose the semi-military force which subsequently became known as the people's Volunteer Organisation (PVO). Primarily it was trained for fighting, if this should become necessary. The assassination of Aung San removed its leader, and the achievement of independence by peaceful means left it with idle hands and ample opportunity for mischief. Disbandment was resented, even when mitigated by belated projects for transforming it into a rehabilitation corps. The men had been trained for underground fighting and, when the communists went underground, a large proportion (probably about three-fifths) of the PVO with some of their top leaders followed them. In this emergency the Government, with the bare nucleus of an army, untrained and of doubtful loyalty, hastily recruited a militia (Sit-wun-dan) to suppress the rebels. This soon deteriorated and was abolished. In place of it a new Village Defence Force, the Pyu-saw-hti, was enrolled in October 1955 and did useful work in holding the field open for the free conduct of the general elections to the legislature in 1956. After the elections, if not earlier, it was increasingly permeated by the partisans of political leaders and members of the AFPFL. Many village defenders revealed themselves as village bullies and the new force became no less unpopular than its predecessors. Its abolition was seriously contemplated but the final decision was to purge it of criminal and other undesirable elements and to reconstitute the remainder as a Special Police Reserve organized by districts under the command of the local Police Superintendents. These successive volunteer forces, hastily recruited to meet immediate emergencies, served a useful purpose in the suppression of dangerous subversive movements, but the government which was so feeble as to need their help was too feeble to control them, and the consequent abuses tarnished the reputation of the AFPFL and weakened its authority.

The composition of the AFPFL reflected its diverse origin. The one tie common to all the groups and members was opposition to foreign rule. On the attainment of independence this tie was relaxed and some minor groups, of no significance in respect of numbers, broke away. Practically all those remaining professed some form of socialist ideology, from Democratic Socialism to Marxism. The Burma Trades Union Congress (BTUC) favoured Marxism and left the League in sympathy with the communist insurrection, but the President, U Ba Swe, though also professing a Buddhist interpretation of Marxism, organized the Trades Union Congress Burma (TUCB) of the unions which remained loyal to the League. The controversy which arose in connection with United States' Korean policy led to a further split and to the formation of the Burma Workers and Peasants' Party (BWPP) with strong communist sympathies. Apart from these secessions however the main body held together and at the end of 1957 the total membership of the AFPFL was given as 1,287,290 comprising the mass organisations and individual party members as shown in the following table. 2/

Affiliated Groups

All Burma Peasants' Organisation (ABPO)	550,050
Federation of Trades Organisations (FTO)	100,243
Trades Union Congress, Burma (TUCB)	60,584
United Karen Organisation (UKL)	31,669
Burmese Women's Freedom League (BWFL)	57,454
Total	800,000
<u>Individual Party Members</u>	
Upper Burma	128,181
Central Burma	199,309
Lower Burma	130,126
Constituent States	29,674
	487,290
Total	1,287,290

In the League as thus composed certain points deserve careful attention. U Nu was generally respected inside and outside the League, and his prestige and popularity contributed greatly to its strength and standing. But neither inside nor outside the League had he any mass organisation or organized body of followers to support him. Apart from U Nu the leaders of the League were the surviving members of the Revolutionary Party who now called themselves and their followers the Socialist Party; references to "the Socialists" in the Government or the League usually signify this particular group of ex-revolutionary leaders. Within this group however certain members carried additional weight in virtue of their control over the mass organisations; thus, Thekin Tin was President of the ABPO and U Ba Swe was President of the TUCB. U Kyaw Nyein had taken the initiative in founding the resistance movement, and possessed great influence outside the League through his connection with the co-operative movement and industrial development, but inside the League he had no mass organisation to back him and was dependent for numerical support on his own personal following. Again, the peasants and workers organisations had been founded long before the Socialist Party came into existence and, except so far as their votes were controlled by the mass organisations to which they belonged, the members could not be regarded as political supporters of the Socialist group. And although some individual party members belonged to the constituent States, the States as such were not members of the League. These matters are significant in connection with its political constitution.

Perhaps the constitution may best be explained by an account of the All Burma National Convention held early in 1958. The first Convention after the original foundation of the League was held in December, 1947, just before the attainment of independence. Since then none had been held; although conventions had been contemplated, the disturbed stage of the country and other obstacles had caused repeated postponement. The AFPFL and affiliated organisations were built up on district branches, coinciding with the districts of civil administration. It seems that, in theory, each district branch elected its own officials and in some cases

elections were held. In practice, however, district officials might be appointed and removed by the central authorities, though more or less in consultation with local opinion. In 1958 the district branches of the AFPFL and of affiliated organisations were represented by 2,178 delegates. The minor States, although not members of the League, were invited to send representatives and, where there were rival groups within a State, arrangements were made for the representation of both groups. In the settlement of issues before the Convention the decision followed the majority of votes. Voting power, however, was allocated in such a way as to favour the mass organisations. Each individual member of the AFPFL had a vote. But a member of one of the affiliated organisations became automatically a member of the AFPFL; he had one vote as a member of the affiliated organisation and another vote in his individual capacity as a member of the AFPFL. Other rather complicated details gave a further advantage to the members of affiliated organisations. As shown above, the members of affiliated organisations had a numerical majority of nearly two to one over the other members, and by this system of plural voting they had a voting majority of nearly four to one, while the ABPO taken alone very nearly commanded a majority of the votes.

A huge temporary Assembly Hall provided seating accommodation for some 50,000 people and, as it was open all round, outsiders could watch the proceedings; the audience on the first day was estimated at over 100,000. The various branches sent numerous delegates along with their officials representatives and each delegation was allotted its place in the hall. The actual business of the convention was conducted by the 260 members of the Supreme Council who were entrusted with voting on behalf of the organisations and branches which they represented. The Executive Committee of 15 members sat on a dais facing the audience and the remaining 245 members of the Supreme Council occupied the front rows in the hall. At the opening session the Council elected a super-cabinet of fifteen members, whose function it was to arrange for the election of the President for the coming year. Fourteen nominations were received, all in favour of U Nu, who was thereupon elected without contest. U Nu then, as President, nominated fifteen members to the Executive Council. His nominations were accepted without controversy and five additional members were co-opted. After the completion of other formal business the proceedings closed with an address by U Nu. Rumours had long been current of discord at high levels and many people were apprehensive of trouble during the convention. Yet it seemed that a spirit of compromise and good will had prevailed, and not impossible that, as the leaders of the League had often predicted, it would rule Burma for another forty years. Yet within three months it was dead.

Nowadays it is generally recognised that economic activities must be regulated in the interest of social welfare, but also that regulations for this purpose multiply offences which cannot easily be detected and proved. It was to deal with such matters and with corruption in general that a Bureau of Special Investigation (BSI) was created in December, 1951. When the followers of political leaders were prosecuted by the BSI, they looked to their patrons for protection and one line of defence was that the Bureau was being used for party purposes. Even within the Socialist group there was already imperfect sympathy between some of the leaders and such charges engendered friction. The general election of 1956 brought matters to a head. The AFPFL gained an imposing victory as regards the

number of seats, but the combined opposition obtained nearly half (about 46 per cent) of the total votes cast. Frustration and disappointment were largely responsible for the reaction, but U Nu attributed the unsatisfactory result to the abuse of their power by the subordinates and dependents of the AFPFL and to rivalry between local factions. All the leaders were honestly concerned to preserve the Union of Burma and believed that for this purpose the survival of the AFPFL was the fundamental condition. But they differed as to how its survival could be ensured. U Nu held that without drastic action to purge the party it would die a shameful if lingering death from the cancer of corruption. Others held that the remedy was more dangerous than the disease; it would entail a major operation and the patient would die under the surgeon's knife. The purge would discredit the patrons of those found guilty and would destroy their influence through their inability to protect their clients. Even if the AFPFL still survived in name, it would no longer be the AFPFL which the Socialist leaders had founded and in which they held a majority in the inner circle.

U Kyaw Nyein was the most vehement exponent of this view, partly perhaps because he diagnosed the situation more clearly than his colleagues, but also because he felt that he himself was the leader of whom U Nu chiefly wanted to be rid. U Nu proposed to resign temporarily from the Premiership in order to conduct the purge. U Kyaw Nyein interpreted his action as a device to obtain sole and supreme power. In the heated exchanges in the Executive Council during the last few meetings in which U Nu explained his views, U Kyaw Nyein "blurted out that he knew U Nu's object was to find fault with the Socialist leaders." U Nu held to his purpose and at the end of June 1956 obtained the reluctant approval of the Council to his resignation for one year. This marks the occasion on which the internal strain on the machinery of the League first caused an open rift.

U Nu's resignation was immediately followed by an exchange of letters with U Kyaw Nyein which have recently been published. <sup>3/</sup> In April, 1949, the Socialists group had resigned from the Government in order to facilitate a reconciliation between U Nu and his critics. U Kyaw Nyein did not refer to this incident in his letter but it may have sown seeds of suspicion that germinated in the parliamentary elections of 1951-52, when he claims to have noticed indications that U Nu wished to break the power of the Socialists. This feeling had been reinforced by the ruling of U Nu that members of the government should be debarred from office in the mass organisations from which they derived their strength; without this support they would no longer be able to put up effective opposition against him and he would have matters all his own way. Further, U Nu had aimed to divide the Socialist group by taking advantage of the factions to set one Socialist leader against another. Again, he had tried to pacify the rivals by appointing to the key position of General Secretary in the AFPFL a man who belonged to neither group and was not even a member of the Socialist party -- a device that would ensure a balance of power between them by making them all powerless. U Nu's reckless disregard of the interest of the AFPFL, or even his deliberate intention to destroy it, could be seen from his arbitrary settlement of a dispute in a local branch when, instead of attempting to smooth out private differences, he had summarily dismissed all the factions; and a general purge along these lines would leave the AFPFL in ruins. U Kyaw Nyein stated

3/ The Guardian (daily), May 6-10, 1958.

that U Nu had especially charged the BSI to investigate the conduct of his subordinates and had accused him personally of using his influence in connection with sales of rice to raise funds for the Socialist Party; he therefore believed that the attack on corruption was a cover for an attempt "to expose him as a man who employed corrupt people and therefore a corrupt man himself," and by this means drive him out of politics. U Nu proposed to resign office temporarily, but what would happen on his return? Would he find his former colleagues guilty? Under the wide definition of misconduct in the Prevention of Corrupt Practices Act, they might not improbably be caught by it for anything they had done or not done, even although acting in quite good faith. All the leaders of the AFPFL must go in fear of U Nu, and he could see only one interpretation of his tactics.

"You are working (U Kyaw Nyein wrote) to get out of the AFPFL Executive and the district leadership of the League, all Socialist leaders and to fill their places with people who will acknowledge allegiance to you only. You are moving to make the AFPFL your own organisation, and then you will set up a Government of your own, that is to say, minus Socialists, in which you are supreme."

U Nu replied that, for the most part, U Kyaw Nyein's charges were vain imaginings and unworthy suspicions; the high officials to whose prosecution U Kyaw Nyein had referred were U Nu's men rather than U Kyaw Nyein's. As regard the improper sale of rice, he had heard U Kyaw Nyein's explanation and although not satisfied with it, had thought best to let the matter drop.

It was not until the publication of this correspondence that the first crack in the framework of the AFPFL was clearly exposed to the outer world. U Nu had resigned, but harmony still seemed to prevail in the inner counsels. U Ba Swe became Prime Minister with U Kyaw Nyein and Thakin Tin assisting him as Deputies, each with full powers within his own sphere. U Ba Swe announced the achievement of internal peace as his main objective, and this was a matter on which all were agreed. His tenure of office, it was said, "gave the country a sense of placidity." But still waters run deep, and beneath the surface there were violent opposing currents. U Nu had taken leave for one year, but he came to believe that there was a plot to prevent his return. Formerly some disgruntled Members of Parliament had suggested that he would be less dangerous as President than as Prime Minister, but then U Kyaw Nyein came to his assistance by allaying discontent; now, he believed, U Kyaw Nyein was his chief adversary. Before his resignation U Kyaw Nyein had warned him that his colleagues, even with the clearest conscience, would be apprehensive as to the consequences of his return. Now he was given to understand that there was a plot against him. "When I wished to resign" he said, "they did not want me to go; but when I proposed to return, they did not want me to come back...If I did not come back, all that I had done for the government during the past ten years would have gone to waste." 4/ Not unnaturally, in view of the U Kyaw Nyein's warning, he was prone to believe in the existence of a conspiracy and to regard U Kyaw Nyein as head conspirator. He came to believe that the plot had been defeated by Thakin Tin and Thakin Kyaw Tun, the Minister for Agriculture who was also General Secretary of the Executive Council. Although he had taken leave for a year he decided at end of eight months, to return in time for the February session of Parliament. The conspiracy has been denied,

4/ The Guardian (daily), May 10 and June 10, 1958.

but, apart from U Nu's belief in it, no explanation of his premature return has ever been made public. On the other hand no obstacle seems to have been set up to hinder his return. U Ba Swe, it was said, had "admirably filled the gap until U Nu felt free to return" and when he stepped down, Burma could feel sure that he did so in accordance with his own wish and that of the majority within the AFPFL. 5/ U Nu's return seemed at the time to have passed off as smoothly as his resignation, yet now it stands out clearly as the second milestone on the downward path.

At the February session, on the resignation of U Ba Swe there were twelve nominations for the vacant office of Prime Minister, all in favour of U Nu, and he was elected without contest. U Kyaw Nyein and Thakin Tin were joined by U Ba Swe as a third Deputy Prime Minister. Under the new government the surface still appeared unruffled. Yet the incidents in connection with U Nu's return added fuel to the barely latent antipathy between U Kyaw Nyein and Thakin Tin, with U Kyaw Tun as a partisan of Thakin Tin and a special object of suspicion to U Kyaw Nyein; below the surface both sides were recruiting their forces for a trial of strength in the overdue All Burma National Congress. This met on January 29, 1958 in the large open space round the Peace Pagoda recently erected by the AFPFL Government in the outskirts of Rangoon to celebrate the 2,500th year of the Buddhist era. The business procedure has already been summarized but, for an understanding of the course of events at the convention and subsequent, it is necessary to fill in some of the details.

U Ba Swe was charged with supervising the general arrangements but the Master of Ceremonies was U Tha Khin, Minister for Home Affairs and the candidate of the Kyaw Nyein group for the post of General Secretary to the new Executive Committee in place of the incumbent, U Kyaw Tun. As each delegation arrived with song and dance and its banner flying, it was shown into its allotted place within the Hall. Provision had been made for food and lodging; Burmans like to take their business gaily and there were theatrical performances and other side-shows; there was a police court, in case the fun or political fervour should lead to a disturbance of the peace; and there was the pagoda for spiritual refreshment and as a reminder that the AFPFL Government devoutly supported the national religion. The combination of grave and gay was very Burmese and a triumphant illustration of the organizing ability of Burmans in matters which they understood and in which they were seriously interested.

The proceedings opened with a short speech by U Ba Swe, who admitted with regret the sounds and signs of discord within the League, calling on all the members to resist divisive influences and preserve its unity; he himself would devote all his energy to working for harmony but, if necessary, he would live up to his sobriquet of "Tiger" against any one responsible for fostering dissension. U Nu followed with a long speech which had already been approved, after careful study, by the Executive Committee. It seems to have been addressed not merely to the delegates and the huge audience within hearing, but to the country in general and especially to comrades underground and their aboveground associates. The political atmosphere was tinged with Marxism and some of the leaders on the dais still called themselves Marxist even if no longer unquestioning followers of Marx. U Nu aimed to show that Marx was not an infallible guide, that his doctrine

needed adaptation to time and circumstances and could not be rigidly applied in Burma. Both Marxism and State Socialism implied autocratic dictatorship which was uncongenial to the Burman temperament. The goal of the AFPFL was national unity within a Socialist state, built up on the principle of political democracy by the free consent of a united people. The proceedings were formal, but their intention was to foster among the delegates the spirit of compromise which had already been accepted by the leaders, and to create a favourable climate for the critical decision of the following day.

Everything turned on the election of the Supreme Council. If the ABPO under Thakin Tin and the FTO under U Pan Myaing (Minister for Local Government and a partisan of Thakin Tin) should exercise their full voting strength, they could obtain control over the Supreme Council and this would inevitably mean the disruption of the League, as it would enjoy full legislative, executive and administrative authority until the next national convention. The votes were taken at the morning session and, when the result was announced in the afternoon, there was a feeling of general relief that the AFPFL had survived the crisis. The new inner cabinet of fifteen members was fairly representative of the rival factions and included one or two members who had not previously been identified with either faction or even with political activities. It showed that among the members and mass organisations the spirit of compromise actuating the leaders had prevailed. In retrospect it may be significant that the fifteen names did not include U Kyaw Tun, the Secretary-General of the expiring Executive Council but did include the rival candidate for this post, U Tha Khin; at the time, however, this does not seem to have attracted much attention.

The next issue, the election of a new President, was a foregone conclusion. As already mentioned, the fourteen nominations were all in favour of U Nu who was elected without a contest. In the next stage, the appointment of a new Executive Council of twenty members, the initiative rested with U Nu, who nominated fifteen members, the other five places being filled by co-option. Among the nominated members seven ultimately joined the Swe-Nyein group but the balance was made even among the co-opted members with ten members on either side. It should be noted, however, that as yet there were no sides, and that it was still uncertain which way some of the members, including U Ba Swe himself, would go if it should become necessary to choose sides. U Nu nominated as Vice Presidents U Ba Swe, U Kyaw Nyein and Thakin Tin, and as Treasurer U Tin (the Minister for Trade Development and formerly Finance Minister and generally respected for his age and integrity.)

So far all was plain sailing. The only controversial appointment was that of General Secretary; with the balance of power between the rival groups uncertain, this post was of exceptional importance. U Nu believing that the former incumbent, (U Kyaw Tun) had supported him against the other Socialist leaders, wished to retain his services. The Kyaw Nyein group, who believed that U Kyaw Tun had misrepresented them to U Nu, strongly resisted this appointment and urged the claims of U Tha Khin, the Home Minister and a stout partisan of Y Kyaw Nyein. Rumors were widely current that U Kyaw Nyein and some of his followers threatened, if U Kyaw Tun were appointed, to form a new Social Democratic Party though without breaking away from the League, and apparently it was only through the

influence of U Ba Swe with the malcontents that this design was abandoned. Finally a compromise was arranged, U Kyaw Tun being appointed as Secretary and U Tha Khin as Joint Secretary. It was also asserted that this arrangement was accepted only on the understanding that U Kyaw Tun would vacate the office within a couple of months. 6/

All the serious business was then over. In his closing speech U Nu paid tributes to the three Vice-Presidents, U Ba Swe, U Kyaw Nyein and Thakin Tin for their good work, and urged them to co-operate in promoting the welfare of the country and to discourage rivalry among their followers in local politics. The AFPFL had survived the convention, but never before had the internal stresses been so clearly visible.

That the AFPFL was still almost beyond challenge so long as even formal unity was preserved was soon demonstrated in the elections for the Rangoon Corporation when the AFPFL candidates gained all but one of the thirty-three seats. But this was shortly followed by new signs of trouble. Despite the alleged understanding that U Kyaw Tun would retire, he still remained in office, and on March 29 the Executive Council decided to summon a meeting of the Supreme Council to deal, among other matters, with proposals for changes in the Executive Council appointed at the convention. Another ominous symptom at the same meeting was a decision to create a new mass organisation under the control of U Kyaw Nyein. These mass organisations (country-wide and in origin non-political, or at least non-partisan) were the main pillars of the AFPFL, but their use for party politics was as Aung San and U Nu had contended, a danger that would drag it down, because rival politicians could use them for their own interest against one another. The resignation of office in these organisations by members of the government had been publicly announced, but it is now clear that the resignations were unwilling and, presumably, not accepted by the organisations concerned. The new mass organisation would increase the danger. Formerly the Union Youth Organisation, debilitated by strife between two rival leaders (both members of the AFPFL), had succumbed to Communist influence and had been dissolved in October 1957. There still survived a Socialist Youth Organisation, but this was not recognized by the AFPFL. The defunct Union Youth Organisation was now to be replaced by an AFPFL Youth movement, open to all youths between the ages of 16 and 36; members of the former Union Youth and Socialist Youth would be admitted as individual members. The Chairman of the Central Committee for organising the new movement was Y Kyaw Nyein; the two Vice-Chairmen were among his closest allies in the Cabinet and the two secretaries were Parliamentary Secretaries in his own group. The obvious explanation was that U Kyaw Nyein aimed to strengthen his position through the support of a body which would counterbalance the other mass organisations in the AFPFL.

But U Nu had already taken action indicating that he meant to purge the AFPFL of parasites, even if it should wreck the League and bring about his downfall. On March 14 he authorized the first of a series of mass arrests, which were soon extended from Rangoon Town to two adjacent districts. In a press conference in April he revealed that 51 people had been arrested in the Rangoon area and 179 and 226 respectively in the other districts. He repudiated the suggestion that the arrests had been dictated by party bias and claimed that both factions in the AFPFL had been treated

6/ The Guardian (daily), February 3, 1958.

impartially; many of U Kyaw Nyein's followers had been arrested in one district, but many of U Kyaw Tun's followers in the other district. Those arrested included leading members in Thakin Tin's ABPO, elected officials of high standing in the new democratic local councils formed under the guidance of Thakin Tin, and many outwardly respectable independent members of the AFPFL.

A second line of attack on corruption, made public at the same time, was a directive for retrenchment in the public service, containing the figures cited above regarding the number of employees. The retrenchment programme embodied eight points. The number of ministries was to be reduced; departments were, so far as possible, to be integrated with the ministries; the tendency to set up independent departments was to be eliminated; the number of boards, corporations, commissions, etc., was to be reduced; the number of employees of such organisations was to be cut down; departments performing similar functions were to be amalgamated; the number of motor-cars attached to semi-government institutions was to be reduced; and the number of branch offices in district headquarters was to be diminished. In all there was to be a reduction of 25% in the number of employees in the public services. Most of the defects in the administration to which the orders drew attention had been recognized for some years by the officials themselves and had been emphasized by experts called in to help in the revision of administrative procedure, and there had been various suggestions for remedies. But new activities were continually being undertaken; it was much easier to invent new machinery and to employ more men than to readjust the old machinery and to cut down superfluous personnel. The proposed retrenchment was very desirable and, in design, impartial. But its beneficial effects would depend largely on the manner in which it was conducted, and the mere project of retrenchment was enough to cause a panic among all politicians who looked to a retinue of followers for support.

The third step marked the parting of the ways. U Tha Khin, as Home Minister and Chairman of the Defence Committee, was officially responsible for the mass arrests. U Nu repeatedly exonerated him from blame in connection with them: he "had not been wanting in any way, or committed any mistake." But U Nu doubted whether the military and civil police would hold firm under pressure and, in view of the rising tension, he decided to take personal charge of the Home Ministry. He has stated that on April 22 he had come to the conclusion that he could no longer hold the two factions together; he felt compelled to choose his side and chose that of Thakin Tin and U Kyaw Tun on the ground that they had supported him in the plot which he believed to have been instigated by U Kyaw Nyein. He acquainted Thakin Tin with his decision and on the following day he informed U Ba Swe, whose pleas for re-consideration he resisted.

At that time U Tha Khin had left for Calcutta as head of a trade mission; he was recalled, but did not learn of the intention to remove him from the Home Office until his arrival on April 25. U Nu offered him another important ministry but, not unnaturally, he refused the offer and resigned from the Government. Apparently U Nu had intended to explain his decision at the weekly meeting of the Executive Council but the news had leaked prematurely and the meeting, from which all three Deputy Prime Ministers and U Tha Khin were absent, passed off quietly. Its proceedings, however, were not without political significance; it

accepted a proposal to facilitate arrangements for the representation of U Kyaw Nyein's AFPFL Youth at the forthcoming convention of the Supreme Council, and it debarred from enrollment in the AFPFL persons expelled from the constituent organisations, and vice versa, thereby excluding partisans expelled during the recent purges. U Kyaw Nyein was at the time in Arakan and out of contact with recent developments until his return on the 27th. The Prime Minister discussed the situation with him on April 28, and they agreed that the rival factions should continue as separate organisations within the AFPFL until the issue could be decided in Parliament; meanwhile there should be no more changes in the Government and no further mass arrests. Another incident of political significance on the same day was the postponement of retrenchment for six months. On April 29 the split was officially announced in a broadcast by U Nu.

There were still suggestions from one of the Ministers, that he and some of his colleagues, including U Ba Swe, had not yet committed themselves finally to U Kyaw Nyein and so far might be regarded as neutral. But in the Executive Council, at its next weekly meeting on May 3, the two groups finally decided on separation and appointed a Leaders' Committee consisting of U Nu, U Ba Swe, U Kyaw Nyein and Thakin Tin to arrange the terms, meanwhile the Ministers in both groups would remain in office. The leading officers of the Executive Committee, the President U Nu, the Treasurer U Tin, and the General Secretary U Kyaw Tun all belonged to the Nu-Tin side, which accordingly remained in possession of the office and assets, whereas the Swe-Nyein group had to set up a separate office in the quarters of U Ba Swe's TUCB, and it obtained an injunction against the Nu-Tin group prohibiting use by them of AFPFL Funds.

On May 5 the President summoned an extraordinary meeting of the Chamber of Deputies for June 8, and both sides devoted their energies to recruiting support for the impending contest in Parliament. It was soon evident that a majority of the AFPFL members of Parliament would follow U Ba Swe, and, that if they were to decide the matter, U Nu would be defeated. But the NUF block announced their sympathy with U Nu and on May 11 published their decision to support him. On May 25 a majority of the M.P.s representing the constituent States decided in favour of U Nu. The result seemed to depend on the decision of the opposition group from Arakan. In a meeting (May 31-June 2) of the Leaders' Committee appointed on May 3 nothing was decided except to summon at an early date the meeting of the Supreme Council for which arrangements had been made in March. On June 4 fifteen Ministers of the Swe-Nyein group resigned and U Nu appointed a new Cabinet of only 20 members. On the eve of the Parliamentary session the Arakan group joined U Nu who withdrew his previous opposition to a separate State for Arakan. The Chamber of Deputies met on June 9 and U Ba Swe moved a vote of non-confidence. As all the opposition leaders had been members of the Government until within the last few days, almost the only charge which U Nu had to meet was that he had been responsible for the split. He replied that the split already existed; all that he had done was to give up the attempt to hold the discordant elements together any longer. With the support of the NUF group, the Arakan group and a majority of the members from the constituent States, U Nu just managed to hold his own. The actual voting figures are tabulated below:

<u>Groups</u>	<u>Nu-Tin</u>	<u>Swe-Nyein</u>
AFPFL	51	97
NUF block	44	1
Arakan group	6	-
Shans	16	9
Kachins	3	4
Chins	3	3
Kayahs	2	-
Karens	2	5
 Total	 127	 119

U Nu's victory by a narrow and composite majority settled the immediate issue between the rival groups, but dark clouds obscured the future. Since then there have been further notable developments. As regards the two incidents which formed the immediate occasion for the break, U Nu had already on April 29 promised U Kyaw Nyein that there should be no more mass arrests, and the problem of retrenchment had been shelved for six months. In both groups heated spirits found relief in the excommunication of opponents. On June 13 the Swe-Nyein group, with 136 members of the full Supreme Council of the AFPFL, elected a provisional Executive Committee which summoned the Council for June 22, when U Nu was deposed and U Ba Swe elected in his place as President of the AFPFL; U Nu and his associates were expelled and the Swe-Nyein faction assumed the style of the "Stable" (subsequently the "Real") AFPFL. On July 2, the Nu-Tin section, calling itself the "Clean" AFPFL, expelled the Swe-Nyein group and arranged to call its own full Congress to confirm the expulsion. On the same day U Ba Swe expelled Thakin Tin, U Kyaw Tun and U Pan Myaing, (President of the FTO) from the Burma Socialist Party. U Nu had already shown that his imagination extended beyond the exchange of anathemas. On June 24, at his first Press Conference after the formation of his new Government, he had announced the proposed enactment of an Indemnity Act to ensure a total amnesty to all insurgents, and a project of a National Convention, where representatives of all parties (including the opposition) could draft, sign and adopt a National Charter of Democracy.

On July 20, in preparation for the National Convention he inaugurated a Seminar comprising representatives of industry and commerce, the public services, economic and cultural organisations and the press. Some 2,000 people attended on the opening day to hear U Nu expound his views, and for the following ten days there were regular morning and afternoon sessions of the sectional interests concerned. Each section in turn had the opportunity to represent and discuss the difficulties which they had experienced and to learn something of the difficulties which the Government had encountered. U Nu explained that so far planning had been imposed mainly from above; now he wanted to make a fresh start by planning from below. As each session ended, the participants were invited to go home and put their considered views in writing so as to provide material for the new Charter. The Seminar lasted until July 29. On the 30th the second promise in the Press Conference of June 24 was fulfilled by the publication of a decree by the President under Section 60 of the Constitution granting a complete amnesty to insurgents (on the surrender of their arms) for all crimes committed up to that date, and covering also the members of political organisations which had been declared unlawful; it

also promised an indemnity for members of the Defence Services, other public servants and all acting under their orders who, in the performance of their duties, had transgressed the law, and had committed acts that in normal circumstances would have been criminal offences. The exact scope and consequences of this proclamation, and its validity unless confirmed by the legislature, still need clarification.

The next important move was the reconstitution of the Public Services Commission as a token that the Clean AFFFL intended to live up to its title. The term of office of the original Commission had recently expired; the former Chairman was re-appointed but of the three ordinary members two were replaced by new men. Previously the Commission, as already explained, submitted recommendations for the appointment and promotion of gazetted officers in government service; now its scope was extended to the appointment, confirmation and promotion of gazetted officers in the various Boards, Corporations and other like organisations. Such appointments had in the past given opportunities for political jobbery, and this extension of the scope of the Public Services Commission had been recommended by expert advisers on administrative re-organisation but, so far as such bodies are intended to work on business lines, closer control over appointments and promotions by an official commission, with more concern for compliance with regulations than with business efficiency, may tend to hamper their activities. A further step towards the purification of public life was the reorganisation of the Pyu-saw-hti village defence units. On the same day that the Chamber of Deputies met for the motion of non-confidence in U Nu, the proposed abolition of this force had been announced. It had become notoriously corrupt, and too many of the men were party bullies, or bullies without the excuse of party affiliation. Yet there were elements of great potential value in the project as originally conceived; a village police could play a useful part in the re-habilitation of village autonomy, and its defects were largely due to the fact that it had been enrolled too hastily and tried too high, and perhaps chiefly to its entanglement in party politics. A conference of administrative, police and military officers showed a great division of opinion, but finally the Government decided to sift out the harmful elements and to transform the remnant into a Special Police Reserve under the local Police Superintendents.

In August one problem, perhaps the most momentous, still awaited a solution. Under the Constitution (section 125) "The Government shall prepare estimates of receipts and estimates of expenditure of the Union for each financial year, and shall present them to the Chamber of Deputies for consideration." It was very uncertain whether U Nu would be able to hold his followers together in the controversial debates incidental to the passing of a budget. The annual budget session is ordinarily held in August and September. There was barely time for a general election; there was grave doubt whether the fever heat of factional strife would allow a peaceful election; and if the opposition came into power they would have no time to frame a budget and would presumably have to make the best of the departmental draft which had already been prepared under the former government. The easiest course was to postpone a decision and wait on events. Accordingly the President convened a session with August 28 as the date for the meeting of the Chamber of Deputies and September 15 for the Chamber of Nationalities. In mid-August the situation was discussed in conference of administrative, police and military officials. In every

district the local officials were prepared to guarantee security for the holding of an election but asked for time to bring the electoral rolls up to date. In a press conference on August 19 the Prime Minister announced that the autumn session would be cancelled and this was confirmed on the same day in a notification by the President. On the 22nd U Nu called a meeting of the Leaders' Committee of which nothing had been heard since June 2, and informed the opposition leaders that the budget would be promulgated by Presidential Ordinance under Section 110 of the Constitution.

An Ordinance can only be promulgated "at a time when both Chambers are not in Session." Parliament must therefore first be dissolved. Under section 84 a general election for members of the Chamber of Deputies "shall take place not later than sixty days after the dissolution of the Chamber." An Ordinance must be laid before both Chambers "within forty-five days from the date of promulgation thereof." Section 84 provides that the Chamber of Deputies "shall meet within sixty days from the polling day." How far it will be possible to convene a session within 45 days of the promulgation of the Ordinance is uncertain, and so also is the legal validity of an Ordinance after 45 days when there is no Parliament before which it can be laid. 7/

By the time that the conflict between the two groups had reached this stage the whole country from the President down to the coolie on the wharves and in the factories and the cultivator in the villages were embroiled in it. The President's ruling was sought with reference to the validity of the resignation of his seat by a member of Parliament and for the decision of a point in issue between the Prime Minister and the State Councils. Legal questions, such as these, he could, and did, refer to the Supreme Court under section 151 of the Constitution. But he could not so easily escape the semblance of responsibility in other matters and was called on to deal with the use of party badges in an election for the Rangoon Corporation and with the removal of the Corporation Secretary. In such matters he did not in fact exercise personal responsibility because he was bound by the advice of the Prime Minister, and the orders that issued in his name were in fact the orders of the Minister concerned. Divinity may hedge a King but does not shelter a President, and he was freely charged with partisan activity when in fact he was complying with the Constitution. The Swe-Nyein group also criticised him for canvassing on behalf of their opponents. In response to this charge he explained through his Private Secretary the grounds for his dissatisfaction with some of the Swe-Nyein leaders, admitted a preference for the Nu-Tin Group, which he considered better fit to lead the nation, and, while disclaiming active support of the Nu-Tin party, he acknowledged his personal interest in the Union Karen League which was linked up with the AFPFL.

The Supreme Court held aloof, so far as possible, from party strife. In the first days of the break between the two groups there had been a suggestion by U Nu, accepted with some qualification by his opponents,

7/ On September 22 it was announced that the President on the advice of Prime Minister Nu, would dissolve the Parliament on September 29 and announce the Ordinance on the 30th. (New York Times, September 23, 1958). -- Editor.

that the Chief Justice of the Union should preside over a committee to enquire into the integrity of the leaders on both sides, but the Chief Justice had prudently declined on the ground that his function was to decide legal issues and not party disputes. The Supreme Court, however, could not evade giving a decision on the two cases mentioned above as referred to it by the President, although these were in fact party issues. Their interpretation of the law seems to have been accepted without criticism, but it is clear that frequent references of party disputes would be liable to impair confidence in the political impartiality of the Judges.

As regards the constituent States, the analysis of the voting on the non-confidence motion shows that the members representing them were sharply divided in their allegiance. When U Nu formed his new Cabinet on June 4, he chose his own Ministers for the States. Under the Constitution the Minister so appointed to represent the State was also the Head of the State. The former Ministers for the Kachin and Karen States had joined the Swe-Nyein group and U Nu replaced them by Ministers who would support him. On the State Councils, however, the opposition had a narrow majority. On the Karen State Council, with 22 members, 12 joined the opposition and only 10 remained with U Nu; on the Kachin State Council the opposition majority seems to have been no more than one. The ex-Ministers protested that U Nu's selection of a Minister from the minority was unconstitutional as, under the Constitution, he was required to make his nomination "acting in consultation with the State Council." U Nu pointed out that under section 115 of the Constitution the Cabinet was collectively responsible, and that this debarred the inclusion of representatives in opposition to the Government. The Ministers took the matter to the President and then to the Supreme Court which decided that the clause regarding consultation with the State Council was directive and not mandatory.

In the State Councils the members of "the Cabinet of State Ministers" refused to resign; had they done so, they would presumably have been re-elected by the opposition majority. This created practical difficulties in the conduct of the administration. In the Shan State, the Head of the State was required "to recommend such measures as he might think fit for promoting the general welfare" (section 163), and to prepare the annual budget (section 164); but the State Council had power to approve the budget, and in all matters within the sphere of the State Council its decision was binding on the Head of the State (section 162). On the other hand the executive authority of the State was vested in the Head of the State, including all matters relating to the recruitment, posting and transfer of officials (section 161). Corresponding provisions applied to the other States. The Constitution assumed that the Head of the State would have a majority in the State Council, and also that he would be acceptable to the Prime Minister as a member of the Union Cabinet. Where these two assumptions did not hold good the consequence was a deadlock which it would seem that only a revision of the Constitution could force open. Within the various States, moreover, there were sharp lines of cleavage and old controversies that the new crisis resuscitated. In the Shan States there was a potentially serious conflict between the Sawbwas and their subjects. When the split occurred, the Shan Chieftains had already agreed with the Union Government as to the compensation to be paid for the relinquishment of their traditional privileges, but the

settlement of this question, long overdue, was once again postponed, and fresh objections were raised in some quarters to the surrender of their powers. Again, in the States, and especially among the Kachins and Chins, the relation of chieftain and follower, patron and client (by no means obsolescent in Burma even if reinterpreted in the terms of democratic politics) was still a living force; the embers of clan feuds were smouldering, with the further possibility, even more disastrous, that clans might forget fraternal differences in common action against external authority.

The public services, whatever might be the personal sympathy of individual members, held by the sound tradition of loyalty to the established government, a useful heritage from the days when they supported British rule against nationalist opposition. The army, too, under wise and patriotic leadership, proved immune against political temptations; but, as already mentioned, U Nu was not too confident about the military and civil police. Moreover some officers of the administrative service held appointments in the Boards and Corporation, where the path between loyalty to the Government and loyalty to a quasi-autonomous institution was not so clearly marked. The Directors and employees of these institutions also included non-officials, who in some cases held their appointment during the pleasure of the Government. The institutions were intended to give effect to the general policy of government. How far was it safe to leave them under the control of men in opposition to the Government? And how could such men be replaced by others congenial to Government without creating a dangerous precedent for a "spoils" system and giving ground for charges of political corruption? Inevitably one consequence of the breach between the party groups was the entanglement of all these institutions in party politics.

Similar, but perhaps even more serious, was the reaction on local self-government. We have noticed that, only just before the final breach, the AFPFL gained all but one seat on the Rangoon Corporation. After the breach a majority declared in favour of the Swe-Nyein group. Two instances in which the President was called in to overrule the Swe-Nyein majority have already been mentioned. In the election in which the party badge was in dispute the Swe-Nyein group withdrew their candidate when the ruling went against them, and then hindered the newly elected member from taking his seat. Factional rivalry in local politics in rural areas, with each side looking to its patron for protection, had been very largely responsible for the rift between the leaders; now, with the leaders openly at odds, there was nothing to mitigate local quarrels. The whole machinery of local government throughout the country was endangered.

The mass organisations were split from top to bottom. One Minister, a high Executive in U Ba Swe's TUCB went over to the Nu-Tin group and organized a new Union Labour Organisation (ULO), which was given the representation of labour in the various official and semi-official bodies, with the natural consequence of factional fights between the members of Nu-Tin Unions and Swe-Nyein Unions. On the other hand a Minister closely associated with Thakin Tin in the land nationalisation movement joined the Swe-Nyein group. The distribution of land by local committees was certain to cause disappointment and to provide material for charges of corruption even with a united committee; with a committee divided along party lines or re-constituted along party lines, mutual recrimination, embitterment and

violence were more likely than an agreed distribution by common consent.

Even the newly formed parties were unstable. The Nu-Tin government was patently a coalition of two unequally yoked extremes. The small Arakan group, in addition to its common demand for an autonomous State, had a conservative tinge. The NUF included elements that professed communism to the farthest verge of legal recognition, of which some small groups threatened to break away because they regarded the leaders as too moderate. But some elements, notably the Justice Party with about one-third of the total members, were less inclined to political experiments than the leaders of either of the two main factions. The Swe-Nyein group was united in opposition, but no one could say how far and how long the members would hold together if put to the test of carrying on the government.\*

To the statement that the whole country has been torn by party strife there would seem to be one exception: the Buddhist clergy. A meeting, apparently well-attended protested against the regulations intended to strengthen monastic discipline, but this had no apparent connection with party politics. Some Arakanese clergy supported the demand for a separate State, but it is questionable how far the meeting was representative of the Buddhist order in Arakan. In another clerical assemblage one resolution exhorted both parties to abstain from violence. But the nearest approach to organised active interest in political events was the encouragement given by a group of leading members of the Buddhist Order in Rangoon to the Internal Peace Committee headed by Thakin Kodaw Hmaing who, for two generations has been the foremost leader of the literary world in Burma and (at over 80) has devoted the energy of a youth to the cause of reconciling the Government and the insurgents. Recently his efforts have been rewarded by the return of the Mon rebels to "the democratic fold," followed shortly afterwards by the PVO under the new style of the People's Comrade Party (PCP). When the rift occurred, negotiations were in progress with Than Htun, the leader of the Communist rebellion in 1948. Apparently his first reaction was to stiffen his terms for surrender or, as he prefers to put it, recognition. Now he is still haggling over the terms of the amnesty. Many of his followers have already "exchanged arms for democracy;" not improbably some will still prefer dacoity to democracy, even if he comes in.

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A post mortem is an enquiry into what has happened in the past and not an occasion for speculating as to what may happen in the future. Yet from what has happened in the past we may, if we can appreciate its significance, find guidance for the future. This enquiry has dealt with the quite recent past; how the machinery of government in Burma was put together and how it now seems to be falling apart. It has already sug-

\* The political crisis entered a new phase on September 26 when Prime Minister U Nu announced that he had arranged for General Ne Win, the Commander-in-chief of the Army, to become Prime Minister on October 28 and that the elections (previously planned for November) would be postponed until about April 1959. For a fuller account see the article by Frank N. Trager, "The Political Split in Burma," Far Eastern Survey, October, 1958 -- Editor.

gested that, in order to appreciate the significance of recent events, we must look further backwards but, in conclusion, a final brief retrospect may be permissible.

When Burma gained independence, Burmans were brought for the first time into direct contact with the vital realities of the modern world in all its aspects. The modern world has a long history. Its distinctive features originated in Europe in the 15th century when the rule of custom under the aegis of religion was first effectively challenged by the re-birth of human reason. One of the earliest reactions was a new impetus to the natural desire for individual gain without regard to social interests. But this anti-social force, arising within the social order was only one aspect of a process of social evolution generating, at the same time and as part of the same process, the moral strength not only to protect the social fabric against anti-social elements but to incorporate them in a stronger fabric on more secure foundations. The issue was long in doubt through successive ages of conflict and upheaval: the religious wars of the 16th and 17th centuries; the industrial revolution of the 18th and 19th centuries; the French revolution, asserting the claims of individual rights against society, and the re-assertion of social duties in the Russian revolution. It was the combined impact of long years of strife with which Burma was quite suddenly confronted when it first took its place among the nations that had survived these perilous ordeals. Yet Burmans thought to gain admission to this new world merely by pronouncing, like some "Open sesame," the magic word of independence. The productive apparatus of the world, fertilized by the bloodshed of four hundred years yielded a harvest of unprecedented richness. Burmans were dazzled by the wealth and thought to share in it, but they were strangers to the dynamic process which produced the wealth.

Under its own kinds, social life in Burma, as in mediaeval Europe, had been governed by custom reinforced by religion and consequently was unable to resist the western powers when they came knocking at its doors in the pursuit of gain. Under foreign rule, the impact of economic forces from outside released the desire of gain from the constraint of custom but did not generate within the social order any creative impulse able to replace the protective shield of custom until it bred a reaction in the guise of modern nationalism. When Burma became independent, the social habits and mental outlook of the great mass of the people were still those of the middle ages, except that bows and arrows had given place to bombs and tommy-guns. Meanwhile the social fabric had been transformed into a factory for material production in which the free play of economic forces had debarred Burmans from learning how to handle the machinery, though they had learned to wreck it by strikes. Burmans had been taught the forms of British political institutions, but these had no reality even in pre-war Burma, and they had still less correspondence with the functions of government in independent Burma. The task of the new government was to weld the component peoples into a united nation; to re-integrate social life from the village upwards in an organic national society; to instil into Burmans the discipline of social and economic life in the modern world; and to equip Burma with the political and economic institutions of a modern State. The process was certain to impose irksome restrictions, arouse resentment and engender resistance; yet, if only because to start with the Government had practically no trained army, it could not enforce the restrictions without the consent of the people, even

when these did not appreciate the need for restrictions.

The magic of independence could not bridge the gap of four centuries separating Burma from the modern world. But the leaders, partly fearful of disappointing the people, and still more perhaps concerned to demonstrate that Burma was a full member of the modern world, looked for short cuts to Utopia. With each new demand on their energy and invention, the machinery of government took shape under the pressure of events, and rapidly grew beyond control\* with the feeble means at their disposal. This rapid expansion of the machinery was facilitated, if not stimulated, by offers of help from international organisations and foreign powers, often with no very clear perception of the limitations on their ability to help, of Burma's need for help, and on the capacity of Burma to accept the help.

This study, however inadequate, of the complex machinery of government in modern Burma may perhaps suggest some useful lessons. One conclusion seems unquestionable. A Communist government would attempt to impose far more restrictions; it would have to employ much the same material and much the same means, while the force at its disposal, apart from foreign intervention, would be no greater than and probably less than, that which has proved insufficient for the AFPFL; it would appear then that Communist rule in Burma is impracticable. Yet Communism is dangerous because of the methods which it employs to gain control and, in every aspect of social, economic and political reconstruction, there is a need to counteract them with special precautions which are apt to be disregarded because they were not needed by the liberalism of the nineteenth century on which the political institutions of Burma were originally modelled and from which the political conceptions of modern Burmans in great part derive. The study may serve also to show that national regeneration cannot be accomplished artificially by the mass production of rules and regulations, but only by fostering in the community a creative power can find a stronger inspiration in nationalism and Buddhism than in Communist ideology which, so far as it has gained a following, is one aspect of the reaction against the social disintegration that it would carry a stage further.

The hydra-headed insurrectionary movement, of which Communism is merely one head, is sometimes regarded as a sufficient explanation or excuse for the shortcomings of the government. But this is an illusion. Doubtless the insurrections aggravated the difficulties of the government but they did not cause them. The ready resort to armed opposition was a natural, perhaps inevitable, consequence of the general demoralisation resulting from the impact of the war on a society in which the common ties of social life had been dissolved by economic forces under the rule of law.

Another illusion, more insidious, is that the present situation is due in any great measure to the personal defects of the leaders and their petty quarrels; that "other men would have done better." They had human frailties, but they were faced with a super-human task; and the optimism and enthusiasm, which were almost their sole assets, tempted them to go

\* These methods are no longer distinctive property of the Communist Party but are common to all party organizations which have learned the trick of utilising public apathy in order to gain power for a minority.

ahead too fast and too far. What they achieved lies outside the scope of this study which deals solely with their attempt, with no guidance from precedent, to construct the machinery of a government that could perform the functions required of any government in newly independent Burma. Now it seems to have collapsed and the peril of anarchy which threatened Burma ten years ago once again looms ominously. Yet they held the country together for ten years, and it is difficult to believe that any group of men, in the same circumstances and with the same limitations, would have done better. This illusion is insidious because it is stimulated by the recriminations of the rival groups, each trying to blame the other; and the charges and countercharges will reverberate with growing vehemence in the general election with which Burma is now faced.

The readiness to emphasize personal shortcomings and to resort to evil-speaking, lying and slandering breeds malice, hatred and uncharitableness, and is especially dangerous because it tends to encourage false optimism in the ability of any government that may assume office in the near future to retrieve the situation. This will have at its disposal the army built up under the late government but, in other respects, it will be faced with the same problem of constructing in Burma forms of government that are appropriate to its functions and will encounter much the same difficulties, even in an aggravated form. For one of its first tasks will be to implement the project of retrenchment, "shelved for six months," and to reduce the apparatus of government and the para-governmental organisations within the limits of the human resources available. Politicians have a professional capacity for taking the objurgations of their opponents in a Pickwickian sense, and it may not be beyond the bounds of possibility that rival leaders, brought more closely face to face with the perilous consequences of discord, may invent a formula for reconciliation and that, in a common effort to repair the damage, a rejuvenated AFPFL may rise like a phoenix, from its ashes. "Judge mildly the tasked world" was the theme fifty years ago of a memorable sonnet that has a much more urgent message for the world today, and not least for Burma; but it calls, inside and outside Burma, for an increase of faith, hope and charity.

September 1958

S U P P L E M E N T

A SECOND CHANCE FOR BURMA: THE INTERIM GOVERNMENT AND THE 1960 ELECTIONS.

By John Seabury Thompson

Almost two years have passed since Furnivall wrote his post-mortem on the demise of the Anti-Fascist People's Freedom League, saddened by the disintegration of the political leadership which, "with little but optimism and enthusiasm to support them," had guided Burma through the first chaotic decade of independence. 1/ "The immediate prospect may seem dark and doubtful," he wrote in September 1958, "but it is permissible to hope that the Burmans may be richer for the loss of some illusions." As he closed his account, Burma, under an unstable coalition government, was sliding headlong towards anarchy and civil warfare, and there seemed to be no alternative leadership. Except for the outside chance that the rival political leaders, shocked by the consequences of their own feuding, might discover a basis for reconciliation and that "a rejuvenated AFPFL [might] rise, like the phoenix, from its ashes," Furnivall could only ask that, inside and outside Burma, there be an "increase of faith, hope and charity."

As it happened, the AFPFL has not risen from its ashes; nor have the leaders of Burma's first independent decade yet patched up their differences. In fact, the vituperative bitterness of the factions has scarcely diminished with the passage of time. Nevertheless, parliamentary democracy has been granted a reprieve and the governing process itself has been revived, revitalized by two climactic political developments for which Furnivall early in September 1958 could not even have hoped. These were General Ne Win's dynamic leadership of the non-partisan Caretaker Government (November 1958 to April 1960) and his remarkable staging of Burma's third general election in February 1960, which returned U Nu and the "Clean" faction of the AFPFL (now the Pyidaungsu, or Union Party) to power.

Perhaps the single most fascinating factor in the governmental development of Burma over the past two years is that these changes were carried out entirely within the established Burmese parliamentary system of democracy, with the approval and support of the members of Parliament elected in 1956, and on the basis of existing legislation. General Ne Win's meticulous adherence to the letter of Burma's Constitution has been an object of international wonder and a rarity indeed among military regimes. Only one constitutional modification was required, and this was a "temporary amendment." It was needed to permit General Ne Win and his Cabinet Ministers, none of whom were members of Parliament, to serve legally as the Government for more than six months. To do this one section of the Constitution was declared not to apply to them. When, on April 4, 1960, General Ne Win resigned to turn the administration back to U Nu, the temporary amendment was voided. At that time he handed over, intact, the

1/ For other discussions of the AFPFL split, see U Sein Win, The Split Story, (The Guardian Limited, Rangoon, 1959; F.N. Trager, "The Political Crisis in Burma," Far Eastern Survey, October 1958, pp 145-155; and J.H. Badgley, "Burma's Political Crisis," Pacific Affairs, December 1958, pp. 336-351.

formal structure of government, just as he had received it. 2/

### The Advent of the Caretaker Government

Prime Minister Nu's announcement on September 26, 1958 that he had asked General Ne Win to succeed him as head of the Government, and that the General had agreed to serve in a caretaker capacity for six months until general elections could be held, caught both the Burmese public and foreign observers by surprise. Because of the "weariness" in U Nu's voice as he made his announcement and read the exchange of formal notes, because of General Ne Win's active military status, and because of the multitude of military personnel who suddenly stood guard at strategic locations throughout the country, there were immediate headlines of a "bloodless take-over" and an Army coup d'etat. 3/ Left-wing extremist elements in the NUF protested violently. Apart from them, the almost universal response to the announcement was a sense of profound relief. The political and economic tailspin into which the country had plunged deeper and deeper during the first three weeks of September was at last to be halted. And there was no longer a question of civil warfare, which might easily have been the end to the disreputable feud.

The response to the charges of "coup" was immediate and indignant. All of Burma's major political leaders, including U Ba Swe and U Kyaw Nyein of the opposition Stable AFPFL, insisted that there had been no coup. It was to be instead a perfectly orderly and constitutionally correct transfer of power to tide over a time of exceedingly trying circumstances. General Ne Win insisted also that in assuming power he did not represent the Army or either political faction and that he had agreed to accept the post of Prime Minister solely "as an individual, a citizen, and as a soldier." Moreover, he had agreed to serve only if the Chamber of Deputies was willing to elect him. All the evidence at present available bears out these claims, unconvincing though they may have sounded at the time. There was no coup d'etat in any ordinary sense of the term and in the whole of Ne Win's administration, although military personnel filled the major posts, neither was there military government as such. Ultimately even the NUF conceded as much.

By the time that U Nu resigned, his own position and conditions in the

2/ Since Burma's independence, the Constitution has been amended only four times. The "temporary amendment," suspending the time limit on Ne Win's tenure of office was the third. The first two amendments were concerned with the establishment of the Karen and Kayah States within the Union, and the fourth provided that the Shan seats in the Chamber of Nationalities, now filled by 25 nominated Sawbwas (hereditary feudal princes), after the present Parliament is dissolved (presumably in 1964) shall be filled by popular election from among the Shans. Constitutional amendment in Burma is relatively simple. A bill for amendment must first be approved by the Chambers of Nationalities and Deputies sitting separately. Thereafter it must be submitted to a joint session of the two Chambers and receive a two-thirds vote.

3/ The Nation, September 27, 1958. U Nu has since insisted that the "weariness" was only the natural result of his extensive travels and consultations prior to his decision.

country had so deteriorated that he had no other choice. 4/ The real surprise was that General Ne Win was willing to assume responsibility at such an appallingly low tide in the country's affairs. For all his pledges at the outset, he might well have taken advantage of the situation to establish an outright military dictatorship and he would have had little difficulty in mustering clear justifications to do so.

It was in the June parliamentary showdown between U Nu and his former colleagues of the AFPFL that Nu actually lost control of the Government. From the narrow vote of confidence his rivals, U Ba Swe and U Kyaw Nyein, emerged with a far more powerful and better disciplined political organization than his own. Although U Nu has always been an extremely astute politician, he was never particularly interested in political organization and at that time he found himself able to carry only about one third of his own party. For the remainder, he had to rely on MPs from the ethnic states and the Arakan and upon the 44 votes of his long-time opponents, the radical left-wing Socialists and pro-Communists of the NUF. Although this coalition stood with him in the confidence vote, he could not count upon its stability in future parliamentary debates. He won the 6 votes of the Arakan MPs only because he had gone further than his rivals in promising to support statehood for Arakan; and the NUF MPs had voted for him only because they disliked and feared him less than the leaders of the Stable AFPFL. If U Nu and his colleagues of the Clean AFPFL were to survive the fall session of Parliament, they had only a few months in which to build a new basis of political power.

The Clean party used all the political instruments of power available to a Government in office to strike at the sources of stable AFPFL strength. Throughout the national and state governmental organizations, the office-holders who were considered loyal to the Stable party were ousted from patronage posts. A new government-sponsored labor federation (the Union Labor Organization) was founded to draw workers away from U Ba Swe's Trade Union Congress (Burma) and was given a monopoly for government-controlled jobs. 5/ And, wherever a case could be made, the leaders and organizers of the Stable party's mass organizations were arrested. Simultaneously, the Clean AFPFL Government was able to dangle rich prizes -- unfilled cabinet posts and parliamentary secretaryships -- before opposition MPs to lure them to defect and join the Clean party 6/

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4/ The account given by U Sein Win in The Split Story is by far the most detailed yet published.

5/ It was in the area of labor controversy that the most serious violence between the two AFPFLs occurred.

6/ Surprisingly, considering that there were no real ideological difference between the two parties, no Stable MP accepted these opportunities. Only one man, the Speaker of the Chamber of Deputies, who had remained neutral on the confidence vote, shifted his position. Bohmu Aung gave his allegiance to U Nu and was made Minister of Defense. However, although he was a highly respected hero of the independence struggle -- one of the Thirty Comrades -- he appears to have carried no one with him.

While they were working to rally the country's active politicians to the Clean AFPFL, U Nu's colleagues also made vigorous moves to convert the government services -- the civil service, the civil and military police, the Pyusawhtis (village guards), and the military forces -- into instruments of the party. In national elections the support of these services would have offset the Stable AFPFL's advantage of strong party organization. According to a published Burmese account, U Nu's colleagues, through the manipulation of assignments, promotions, resignations and forced retirements, were quite successful in gaining this control over all the services except the military forces. 7/

It was in late August and early September that they turned their attention to the Army. There the military forces, under the command of General Ne Win, presented quite a different problem from the other government services. Through years of fighting Burma's Communist and ethnic insurgents, the military forces had developed a strong sense of unity and had never allowed their organization to be dominated by a political party. In June, following the AFPFL split General Ne Win had given warning that the Army would serve only the Constitution and the laws drawn up thereunder and, as the Army would refrain from interfering in politics, he urged the political leaders to leave the Army alone. 8/ The Army leaders watched with growing alarm and distaste as Prime Minister U Nu made increasingly generous amnesty offers to the insurgents and as his colleagues openly moved to take over the government services. When finally the Government turned its attentions to the Army, the Army leaders were fully prepared, and they blocked the manoeuvre firmly. As General Ne Win later explained to Parliament, after the Army had been caught unprepared by the insurrections of 1948-49, it had drawn up plans to meet future threats to national security. By 1953 these plans were completed and when, in September 1958, the Army saw that the political situation was getting entirely beyond control, it put these security plans into effect. 9/

Published accounts agree that by late September rumors were rife of impending violence and political assassinations and that armed units of the already subordinated military police and forest guards were converging on Rangoon for a showdown with the Army. As General Ne Win later reviewed it: "When the Inspector General of Police was asked the reason why such large numbers of Union Military Police were being called to Rangoon, he replied, quite honestly, he did not know anything about the matter at all. The situation was that much confused." 10/ It was on U Nu's return from an up-country trip, on September 22, that he was told by his Cabinet that the Army was planning a coup d'etat. Alarmed, U Nu called in the Army leaders. He was told by Colonel Maung Maung that there was no plan for a coup and that the Army was not willing to establish a military government. Neither was the Army willing to allow the politicians to disrupt its

7/ Sein Win, op. cit. p. 74. Sein Win asserts, as do most other writers, that U Nu took no part in the manipulations -- and preferred not to hear of them.

8/ The Nation, June 24, 1958.

9/ Ne Win, Speech before Parliament on 31 October 1958. Government in the Union of Burma, 1958 November- 1959 February, Director of Information, Rangoon, p. 12.

10/ Ibid.

leadership or to try to convert it into a partisan force. If attacked, the Army would strike to defend its independence. Finally Colonel Maung Maung told U Nu that he would have to take immediate action to curb the political excesses or the Army could not guarantee the peace. It was after this that U Nu personally decided to ask General Ne Win to take over. He gained the reluctant consent of his colleagues, the approval of his political rivals, and finally drafted both his invitation to Ne Win and the General's acceptance of the Prime Ministership. 11/

Whatever direct or indirect pressures may have compelled U Nu to his decision, 12/ he had in General Ne Win the ideal solution to an intolerable situation. Ne Win was a man of national stature, highly respected, and with the solid support of his Army. He was a man experienced in government leadership but without political ambitions. Above all, to step out in favor of General Ne Win made it possible for U Nu to avoid having to yield to a Stable party victory and gave him time to rebuild his party. Having decided on this course, U Nu made his resignation a gesture of magnanimity to spare the country the horrors of impending bloodshed and the danger of external interference. "I visualized that ... Burma would either become another Korea or would completely disintegrate. 13/

#### The Ne Win Regime

Welcome as Ne Win was to U Nu, to the two factions of the AFPFL and to Burma as a whole, his nomination marked a sharp departure from the style of government to which Burma had become accustomed since independence. The Caretaker regime was a move to the type of forceful government which General Aung San might have provided had he lived. For all that General Ne Win is a man dedicated to parliamentary democracy as he has seen it emerge in Burma, his conception of the Prime Minister's role was one of leadership and direction. Clear in his own mind as to what he wanted to accomplish, he had little regard for the popularity or unpopularity of his Government's moves. His leadership, and the leadership of the numerous Army, Navy and Air Force officers whom he appointed to top civilian administrative roles, was forceful and direct, impatient with delay and insistent upon speed and efficiency. As neither Ne Win nor any of his appointed military administrators was dependent upon popular approval for a future career, he was in a position to operate entirely without fear of future political punishment -- or hope of reward. The strongest similarity between the Ne Win regime and the political administrations before him was the deep sense of national identity, of Burma, which it shared with them. In most other respects the Ne Win administration more closely resembled the pre-war government under British rule than it did the AFPFL governments of the previous decade. This was its weakness as well as its strength, for like the pre-war governments it insisted upon providing for Burma what the people needed, whether they wanted it or not -- and in many

11/ Sein Win, op. cit. pp. 81-83.

12/ U Nu's assertion that he, and he alone, decided to ask Ne Win to assume the Prime Ministership, and that he had not -- and would not -- yield to anyone's threats is well supported by his record of personal courage in the 1948-50 period when the insurgency was at its height.

13/ Government in the Union of Burma, op. cit., p. 6.

cases the Burmese might have preferred to be left alone.

General Ne Win took office as Prime Minister on October 28 under most auspicious circumstances. He had the support of both the Clean and Stable AFPFLs and the "unanimous" vote of the Chamber of Deputies. 14/ His statements on taking office seemed to guarantee that he would continue the basic programs and policies of the united AFPFL. In his formal letter accepting Nu's invitation to take over, he made seven reassuring commitments: (1) to endeavor "to the utmost" to establish conditions for fair and free elections before the end of April 1959; (2) to exclude from government the active leaders of the political parties (except from the ethnic states); (3) to keep the Army from interfering in political matters; (4) to control and punish acts of violence and lawlessness by military personnel; (5) to act to suppress crime so far as possible; (6) to strive for internal peace; and (7) to maintain Burma's foreign policy of neutrality. 15/

While repeating these pledges in his post-election speech, General Ne Win gave a first indication of his intentions for reform. He warned that his Government was broadening the definition of insurgents and would take "severe action" against the "economic insurgents" who evaded the government's regulations against profiteering and black market activities. He also guaranteed to bring down the high-ceiling prices of goods and foodstuff. 16/

#### Neutrality under the Caretaker Government

General Ne Win's seventh pledge -- to maintain Burma's neutrality -- was a natural one for his Government to make as it fitted closely with the intense nationalism of the General and his top military colleagues. They had devoted their entire careers to the struggle for Burmese independence and, after 1948, to saving their country from disintegration and overthrow. And they were immensely proud of their success. Years of fighting Communist insurgents had made them firmly anti-Communist; at the same time, even though a few of Burma's military leaders had any extensive foreign experience, years of living on China's border made them sharply aware of their vulnerability to a Communist Chinese attack. Neutrality was the only logical position for a Burmese government to hold.

There were during Ne Win's administration several tests of Burma's neutrality, in which the Caretaker Government tended to favor the non-

14/ There were 25 nomination papers filed in the Chamber of Deputies -- 9 by the Clean AFPFL, 15 by the Stable AFPFL, and one by the Justice Party (formerly a unit of the NUF). All were for General Ne Win. In Burmese practice, nominating papers must be signed by the nominee, the nominator and one seconder. During the nominating speech by U Nu, one radical MP from the NUF staged a protest walk-out and when the vote was being taken the NUF remained conspicuously silent. Government in the Union of Burma, op. cit., p. 4.

15/ The Nation, September 27, 1958. See also Sein Win, op. cit. pp. 87-89, and Government in the Union of Burma, op. cit. pp. 3-4.

16/ The Nation, November 1, 1958, or Government in the Union of Burma, pp. 10-15.

Communist nations over the Communists, even as U Nu's Governments had done. 17/ If there was any actual shift in Burmese foreign policy, it was a shift in degree, not in kind, and when Ne Win returned the Government to U Nu, he handed it over as carefully "uncommitted" as it had been before. For the most part, preoccupied with gargantuan internal problems, the Government avoided public commitments on most major international developments. Even the Tibetan crisis received no official comment, although it aroused strong popular criticism of China. Where the Government was required to speak out, particularly in the United Nations, it followed precisely its earlier patterns.

The single most important development in Burma's foreign policy under Ne Win was the signing of a border agreement with Communist China. In late January 1960, just before the general elections were to retire him from the prime ministry, General Ne Win visited Peiping to conclude this agreement along with a treaty of friendship and non-aggression. A firm border agreement with China from Tibet in the north to Laos in the east has been a prime objective of the Burmese Government from the very start of independence. U Nu had already obtained an agreement-in-principle on this issue from Chou En-lai in 1956, though nothing had been signed and Burma continued to be vulnerable to constant incursions and harassment in the unsettled border areas. General Ne Win's border agreement is in fact the first ever to be signed by the Chinese Communist Government with any of its neighbors and it is not unfavorable to Burma. It defines the border on more or less traditional lines and identifies the two areas which remain for negotiation between the two countries. 18/

There was one important reversal in Burma's foreign policy during the Interim Government's 18-month tenure. Ne Win, vigorously economy-minded, abandoned U Nu's policy of accepting assistance from foreign governments only on a loan basis. Insisting that Burma could not afford the luxury of loans, he announced that his Government could accept foreign assistance only on a grant basis. Under this new policy, when the Soviet Union was unwilling to shift its economic development projects (made as "gifts" repayable in "gifts" of Burmese rice), the Interim Government cancelled five out of eight Soviet projects under contract, continuing only those which were well on the road to completion. In the same period, the Burmese Government and the United States reached agreement on a major grant program for the building of a new campus for the Rangoon University and agreed on the preliminary surveys for a joint-US-Burma highway between Rangoon and Mandalay.

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17/ This is the natural consequence of Burma's long-standing economic, educational and cultural patterns which, insofar as they lead outside Burma at all, tie Burma to India and Western Europe rather than to China or Russia. With the passage of time since independence, the intensity of feeling against colonial and foreign capitalistic exploitation has declined, and relations with the Western countries improved.

18/ As this is being written in late August 1960, negotiations for a final border treaty are under way between joint Sino-Burmese committees, and press reports indicate agreement is being reached on all outstanding issues.

Several incidents in this period also tended to damage the local standing of the Communist countries. These were defection attempts by three members of the Soviet and Chinese embassies and a libel case involving the Tass correspondent in Rangoon. Of the two defections from the Soviet embassy, the first failed and the second succeeded, but what aroused the Burmese public in both cases was the high-handed methods used by the Soviet representatives, who totally ignored Burmese laws and customs. In the first case, in their anxiety to ship the defecting military attache back to the Soviet Union without publicity, they manhandled Burmese newsmen at the airport in Rangoon and smashed cameras -- thereby bringing down on the Soviet Union a torrent of colloquial abuse from the Burma Journalists Association. The successful defection of a Soviet Information Officer was followed by his published exposés of Russian espionage and propaganda tactics in Burma, which were widely reprinted in the Burmese press. In the case of the Tass correspondent, the libel suit brought against him by the editor of the Rangoon Nation has dragged into a long-term litigation, the correspondent evading prosecution for more than a year by hiding in the Soviet embassy.

China, too, had an embassy incident in Rangoon. A junior member of the embassy staff, involved in a sordid affair with a young Burmese girl, sought refuge in the home of an American diplomat, who turned him over to Burmese custody. After several months, however, the Chinese left Burmese custody and, presumably, returned to Communist China. Thereafter nothing more was reported of the matter. None of these incidents was ever particularly explosive, but apparently there were no episodes, even on this level, to mar relations between the Burmese government and the non-Communist nations.

#### Preparations for Reform

Given the partisan bitterness, the arrogance of the various insurgent groups, the sorry decay of the governmental structure and the general state of tension which had built up prior to U Nu's resignation, the Interim Government started its reform activities remarkably slowly. (Although in a formal sense the change in government did not occur until after the October 28 vote in the Chamber of Deputies, to all intents practical authority shifted to General Ne Win with U Nu's public announcement on September 26). Parliament was given its customary 30 days to assemble and the month of October was spent in reassuring the country that all was well. There was a brief flurry of precautionary arrests immediately following U Nu's announcement, but the prisoners were quickly released. The "ring of steel" around Rangoon, commented on editorially on September 27, quickly dissolved, and detachments of soldiers, sailors and airmen, under the direction of colonels, were soon to be seen peacefully sweeping the dirt from the Shwedagon and from other pagodas throughout the country. Army and government officials toured the country to explain to village headmen and district leaders just what has happened. For the benefit of the political leaders, General Ne Win named to his Cabinet a small group of distinguished non-partisan elder statesmen. <sup>19/</sup> and announced that he was

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<sup>19/</sup> Ne Win, by limiting the size of his Cabinet to 14 -- eight functional Ministers, five for the ethnic minorities and himself -- instead of the 30-odd who customarily made up a Government, indicated that posts were to be functional, not political awards that there would be economy in government and that authority in this Government would be centralized.

prepared to accept as Ministers for the ethnic states the men whom the state governing councils nominated.

While Parliament was in session, November passed just as reassuringly. Controversial measures (such as Arakan statehood, which had been promised by U Nu) were set aside as being improper items for a mere caretaker government to handle. The Budget, prepared by U Nu's Cabinet, and the issue on which his opposition had expected to defeat him, was passed without change and without protest. The Government asked, and obtained, the passage of only two controversial acts, neither of which was partisan. One, legalizing the slaughter and sale of beef, dismayed devout Buddhist leaders and undoubtedly would have cost civilian politicians some popular support. But, beyond gestures of reluctance and a suggestion that the lives of Burmese cattle could be spared through the import of Australian beef, both Chambers of Parliament readily approved the Government's request. 20/ The second act, which brought protests from responsible journalists as well as from NUF spokesmen, temporarily increased the Government's power over the press and was aimed especially at "seditious" articles. The basic protest was that sedition was too vaguely defined in the act which might thus be too broadly applied. 21/ However, this bill, too, passed without difficulty.

Actually there were only three occasions during this honeymoon period when the Government made any show of its potential striking force. First, without warning, the Rangoon police abruptly closed down and dismantled newly erected sidewalk vending stalls owned by followers of the Stable AFPFL and then, as if to show its impartiality, reopened a murder case which had been lying dormant for four years, and arrested an MP of the Clean AFPFL. The third incident involved rioting between students of Mandalay University and Mandalay Teachers College over the program of a pwe (outdoor performance). Using batons and tear gas the police broke up the demonstrations, and 17 students and four police were injured. Clashes between students and police have long been used in Burma for anti-Government demonstrations, and student rioting has traditionally been a respected political weapon -- most notably in the Student Strikes of 1936 led by U Nu, U Ba Swe, U Kyaw Nyein and most of Burma's leading contemporary politicians. On this occasion, however, although an NUF MP asked for an adjournment of Parliament to debate the police action, the Government was unmoved. Ne Win's Minister of Education, a Rangoon University philosophy lecturer of thirty years' standing, gave the Government's full backing to the police. He added that the present-day students were working hard to become Members of Parliament and Parliamentary Secretaries instead of working at their lessons -- and closed the case. 22/ On the whole,

20/ Because of wartime herd depletion, cattle had been protected and the sale of beef in Burma proper prohibited. In the ethnic states, however, the ban did not apply, and the Army and its dependents was authorized its ration of beef on pre-war British Army standards. Prime Minister Nu as one of his first acts on resuming control of the Government, re-imposed the ban.

21/ The act was vigorously applied, both against papers classified as subversive and, in one case at least, against a humorous columnist who failed to amuse the Government.

22/ The New Burma Weekly, November 22, 1958.

however, the Government moved so slowly that there was grumbling in the press over its inaction.

The sweeping of dirt from the pagodas had meaning beyond the traditional act of veneration. On November 24, when Parliament had finally been prorogued, the tempo of government changed abruptly. From the drift of the previous two months, it shifted into a drive against economic exploitation by business and political leaders, against politically-protected criminal elements in the two AFPFLs and, most vigorously, against political leaders of the NUF. Surprisingly, however, considering that the threat of civil war and insurgent violence had been given as the formal reason for Ne Win's take-over, no all-out military campaign was launched against the insurgents. Instead, the previous pattern of relatively small-scale operations continued, stepped up, perhaps, by being put on a year-round basis including the rainy season. General Ne Win withdrew the sweeping amnesty terms which had been offered to the rebels by the Clean AFPFL but guaranteed that those surrendering would be dealt with fairly on an individual basis -- and the flow of insurgents "returning to the light" continued. The results of his policy were reviewed with considerable satisfaction by the Government in March 1960. In "108 major and 323 localized operations against the insurgents" 1,872 of the enemy were killed, 1,959 wounded and 1,238 captured. In addition, 3,618 insurgents had surrendered to the Government. 23/

#### Ne Win's Social and Economic Reforms

Once Parliament was adjourned, the Ne Win Government quickly took on the characteristics of a "good government" reform movement and, according to the Rangoon Nation, its "drive for the moral rehabilitation of the people" became its outstanding characteristic. The city of Rangoon lent itself admirably to such a program and served as an excellent model. This essentially beautiful city, as a result of war damage, vast overcrowding by refugees fleeing rural insecurity, the loss of the pre-war Indian labor force, and basic neglect, had become notoriously run-down and filthy. Previous city administrations had done little to improve the situation. On November 29, by a Presidential Order charging the Mayor of Rangoon and the Rangoon Corporation with "incompetence," the Government dissolved the elective body and appointed in its place a Commissioner and a non-political advisory committee. When the new Commissioner, Colonel Tun Sein, took over on December 1, the outgoing Mayor (placed on indefinite leave) accepted the President's charges and warned his successor that the Rangoon mess was hopeless: the city council was incompetent, the municipal staff was incompetent, and the general public lacked all sense of civic duty. Colonel Tun Sein's answer was blunt and military: as a soldier, he said, he was there to carry out orders, and, if he were told to, he would sweep the streets himself. 24/

23/ The Nation, 23 March 1960. General Ne Win's success in prevailing upon the Shan Sawbwas to surrender their feudal governing rights created new insurgent problems for the Army. Numbers of young Shans went into revolt, and thus, while the number of insurgents were decreasing, the number of insurgent organizations increased.

24/ The Nation, December 2, 1958.

Tun Sein's impact was immediately apparent. Soldiers, government workers and private citizens by the thousands were organized into clean-up squads -- donating free time on Sundays -- and the accumulated filth of almost two decades was carted from the city. Sewers were cleaned, the pi-dog, rat and crow population hunted down ruthlessly, parks were beautified, and the owners of buildings were forced to renovate their property. Colonel Tun Sein took active personal leadership of the campaign and, whether or not he actually swept the streets, he was photographed re-laying a section of up-ended sidewalk. Rangoon's rejuvenation projects carried still further to include the reorganization of the bus system, the elimination of pony carts, sidewalk stalls and betelnut stands.<sup>25/</sup> The pattern set in Rangoon was widely applied throughout other cities and towns of Burma. Further, the vigor and energy of Tun Sein was matched by other military officers responsible for the transportation systems, communications, rice sales and almost every other phase of Government activity.

Far more ambitious than the Rangoon street clean-up was the Government program for resettling squatters and demolishing their squalid huts throughout the city. Where previous Governments had hesitated even to move individual squatters against their will, the Ne Win regime, established three satellite towns outside Rangoon into which it moved nearly a third of Rangoon's population. Included in this move was the establishment of commuter bus and rail systems, schools, water and light and health facilities. Also included for the resettled squatters was the grant of titles to their new homesteads. In rural areas with special security problems the Government required isolated villages to move closer to the highways where the Army could protect them. Despite the advantages of these moves, inevitably many hardships were caused by them, and it is doubtful that any popular Government would have taken the risk. <sup>26/</sup>

The same process of "moral rehabilitation" was applied to the government services. Civil servants were informed that so long as they carried out their duties efficiently and responsibly they had nothing to fear from the new regime. They were also publicly informed that they would be required to observe office hours with care (9:30 a.m. to 4:00 p.m.) and would not be given a break for lunch. In the heavy shake-up that followed more than three thousand persons were dismissed, forced to resign, or sent on indefinite leave without pay. Laborers working either directly for the Government or for its boards and commissions were ordered to dissociate themselves from the labor unions dominated by political parties and to form independent organizations dealing only with economic issues and work conditions. While this was merely reviving a longstanding government regulation, it was followed by an act forbidding persons to be officials of mass organizations and political party leaders at the same time.

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<sup>25/</sup> So far-reaching did the clean-up appear that rumors circulated that morals and fashions were next. Tun Sein had to deny publicly that he would ban lipstick and short-sleeved blouses and explained that he would only enforce existing municipal regulations.

<sup>26/</sup> On U Nu's return to power he "temporarily" halted the still incomplete program of resettlement from Rangoon, saying that it required further study.

It was Ne Win's program for economic reform that cut deepest into Burmese society. Following the General's October warning to the "economic insurgents," no real moves were made until the end of November. Then, in a series of police raids, stores and warehouses in Rangoon were sealed and the owners were required to bring proof of ownership, legal importation, proper pricing, as well as proof that they were not hoarding or profiteering, before they were allowed to reclaim their goods. Improprieties led to quick arrests and deportations of "undesirable" foreign merchants -- mainly Indian and Chinese -- and jail sentences and fines for Burmese merchants. Also unexpectedly, the Government sealed all safes and vaults, in Rangoon's banks and then required the owners to open them in the presence of government representatives and to account for their holdings.27/

While these sweeping investigations were going on, the Government moved to force retail price reductions through legal action, voluntary agreement and government competition. The Government fixed profit margins on essential imported commodities at between 5 and  $7\frac{1}{2}$  percent for importers and wholesalers and between 10 and 15 percent for retailers and required all items to be clearly marked with their prices at all times. 28/ In addition, the Army went into competition with private business on a large scale. Early in November the Government ordered the military forces to bring fish and firewood into Rangoon and, later, when beef sales were authorized, the Army was placed in charge of retailing the beef at a reasonable rate. The low cost of beef, incidentally, brought down the prices of other meat as well. Later, through the Defense Services Institute (originally established as a commissary for military families) the Army went into extensive competition with almost all private business interests. It came to undertake manufacturing, shipping, banking and the import-export business and by the end of the Interim Government was one of the most powerful business interests in the country. 29/

In its drive against domestic profiteering and hoarding the Government also took on the job of policing the import-export business. With independence, the Burmese Government had naturally tended to favor Burmese citizens over aliens in the issuing of import licenses, in the hope that Burmese merchants would develop the initiative to compete successfully with the Indian and European firms in Burma. Although Burmese firms sprang up, most of them preferred the quick profits from the resale

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27/ U Nu's daughter was among those queried about her holdings in money and gold, as her safe deposit box in a bank held 90,000 kyats and two bars of gold. Although this disclosure was something of a political embarrassment to U Nu, his daughter was able to explain the sources and disposition of the wealth. The Nation, December 14, 1958.

28/ These regulations brought severe complaints from the business community which argued that the basis of figuring costs, on which to base profits, was not properly established and that in many cases the limitations made business no longer worth while. Nevertheless, this government action effectively lowered the cost of living.

29/ The rapid growth and business success of the Defense Services Institute caused much complaint among private businessmen and even before the end of the Interim Government, its directors announced that the Institute would sell 85 percent of its shares to private investors.

of import licenses to the more complex business of actually importing and distributing merchandise, and alien firms continued to dominate the field. In an effort to break up this practice, the Interim Government conducted a careful study of its records and proceeded to re-register those firms which had not actually engaged in importing goods. While de-registration -- refusing to grant further import licenses to the bogus firms -- struck some alien companies, it hit hardest among the Burmese firms and before the end of Ne Win's term almost two-thirds of the Burmese firms once listed had been struck off the record. Although the Government acted with impartiality, it had obviously struck too deep -- and was failing in its original intention to build up the Burmese role in business. Before it left office, it was searching for means by which to justify re-registering as many of the Burmese firms as possible. Having found no satisfactory device, it went out of office with a sweeping announcement that beginning June 1, 1960 (when U Nu would be the Prime Minister) all imports would be handled through Burmese agents. 30/

The Government's economic house-cleaning led also into the area of outstanding loans made by previous administrations for business and agricultural development. Almost nothing had been done to obtain repayment. Once the Interim Government took up this problem, it demanded a full accounting, blacklisting defaulters and foreclosing ruthlessly on collateral. The result was swift, and in most cases repayment was made, although there was considerable protest from both the agricultural and the business communities. Former government officials who had failed to obtain repayment in the past were subjected to investigation and some were prosecuted for corruption.

When the whole area of foreign economic aid and advice came under the Government's scrutiny, it did not like what it found. In sweeping moves it denounced the work of almost all the foreign firms and specialists (for which the Burmese Government was paying) as wasteful and unsuited to the Burmese economy. In December it cancelled the contracts of its two American advisory firms and shortly thereafter eliminated five of the eight Soviet "gift" projects, noting that they were neither suited to Burma's needs nor gifts. The Burmese Government projects under foreign management and the joint ventures between the Burmese Government and foreign firms were subjected to similar scathing criticism. Finally, in its sweeping economy drive the Government dismissed almost all the foreign advisors paid by the Burmese Government and ordered them home. 31/

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30/ On June 1, the Nu administration announced that this rule was in force. How it will work out is still open to question as the number of Burmese firms qualified for imports is clearly insufficient to meet the country's demands.

31/ Mr. Furnivall himself was caught in this house-cleaning. As Professor C. H. Luce reported in his obituary notice, "Burma was then flooded with Advisors from foreign parts, who know little or nothing about Burma, but had a Nostrum that had worked elsewhere. Then 'a new king arose who knew not Joseph,' but merely classed him with the Nostrum-mongers, and served sudden notice, on him as well as them, to leave the country within two months. It was a cruel blow to one who had devoted fifty years of his life, singlemindedly, to Burma. Later the time limit was extended..." The Nation, July 13, 1960.

## Internal Security under the Interim Government

General Ne Win's army men who served as the chief administrative officers in his Government acted everywhere with speed, efficiency and impartiality, and nowhere more so than in their handling of the Government's program of law enforcement. Basically, of course, it had been the breakdown of order, especially as it affected the Army, which had led them to take over. Thus it was essential to all the Government's reform programs that law and order be re-established first. As with its other programs, the Government spent its first two months in careful preparation. The partisan manipulation of the civil and military police was stopped and the services carefully reorganized. Police and military officers were given special intensive training courses to familiarize them with sound legal procedures for making arrests.

Common criminal elements, tainted political figures high up in both the Clean and Stable parties, and leaders of the left-wing NUF all felt the force of the Government's drive. When major arrests began in December, the Government could assert that each individual was being held on "conclusive evidence." With special reference to the left-wing political leaders who were charged with subversive activities, the Director of Information announced: "We have firm reports that these men were in contact with the rebels, and that is why they were arrested." 32/

Not all those arrested were immediately brought to court by the Government; under laws passed in previous administrations this was not required and many were held in protective custody. Nor did the Government win or complete all the cases it brought into court. 33/ Its overall record, however, was one of success. In periodic reports to the public, Army and Police officials discussed and illustrated the rapid fall in the crime rate, especially as compared with the June to October period of 1958. 34/ One of the factors which undoubtedly affected the crime rate, over and above the vigor of the policing, was the stiffening of the sentences that were handed down and the sharp decline in the degree of mercy. 35/

## The Interim Government and Political Parties

It was unavoidable that the three major political parties in Burma would be weakened during General Ne Win's tenure. For 18 months they were without the patronage and awards with which to encourage local leaders to

32/ The Nation, December 5, 1958.

33/ As Mr. Furnivall has noted earlier, Burma carried over from the British experience high standards in the administration of justice which have not been seriously undermined.

34/ For examples of these reports, see The Nation, February 8, 1959, May 15, 1959, and August 24, 1959.

35/ As a Rangoon journalist noted, between 1954 and 1958 of 270 persons condemned to death, all had their sentences commuted to life imprisonment. In the first six months of 1959, however, less than ten percent of those condemned had their sentences commuted. The Nation, June 15, 1959.

build up town and district organizations. It was inevitable, too, that the Interim Government's example of administrative efficiency should put the relatively inefficient AFPFL administrations in a bad light. True to the General's pledge, the Interim Government at no time moved against any of the legal parties as such. In its reform programs, however, it was no more lenient toward party leaders than toward others who stood in its way and thus, in many parts of Burma, it practically wiped out local political leadership through its arrests.

From the outset the NUF leaders recognized that it was their party which stood to lose most under General Ne Win. They were, in fact, so weakened by the mere announcement that U Nu was resigning that they were forced to make an immediate public retraction of their charges of coup against the Army. 36/ U Nu's resignation ended for them their brief period of real political power when, through supplying him his margin of victory in Parliament, they held a potential veto over all Government policies even though no NUF members were included in the Cabinet. Further, they knew that with the Army's intense anti-Communist attitude they would receive no consideration from the new Government and would be prosecuted to the fullest extent possible within the law -- and they were.

Although U Nu and the Clean AFPFL were formally General Ne Win's nominators, the party soon found itself under heavy attack, its organization disrupted and many of its leaders arrested. By mid-December the Clean AFPFL had become the most vocal critic of the administration, charging that it was being singled out for persecution. Its lawyers in Rangoon organized a Fundamental Rights Committee to defend its members. By the February session of Parliament, the Clean AFPFL was outspokenly opposed to any extension of General Ne Win's term of office and U Nu publicly demanded that the General honor his pledge to hold elections before the end of April. 37/ When the Clean AFPFL found itself forced to back down in support of the temporary constitutional amendment, U Nu announced that regardless of the consequences he would lead a "civil disobedience" campaign (which he also called "passive resistance") against the Government if the injustices about which he had complained were not redressed:

"Don't give us any privileges, but stop victimizing and harassing us. We do not suggest that the other side should be harassed either. We would not object to their getting favored treatment even. But leave us alone to manage our political affairs without hindrance. The knock on the door of politicians, and the taking away of our organizers for questioning, are practices repugnant to the democratic mind. To safeguard the

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36/ After an interview with General Ne Win and his Army colleagues on October 1, 1958, NUF leader U Aung Than (elder brother of the martyred General Aung San) reported to the press: "This is a unique situation. It is certainly not a coup. And yet we know what we know. Anyway, the man who devised the method of transfer is a damned clever fellow." The Nation, October 2, 1958.

37/ U Nu at all times made the point that none of his charges against the Government were aimed at General Ne Win, in whom he had absolute confidence.

freedoms of speech and organization, I am fully prepared to launch a campaign of passive resistance, even if I have to die in the attempt. 38/

Although there was no follow-up to U Nu's threat, it was indicative of the antagonism toward the Interim Government which the Clean AFPFL maintained straight through to the elections.

The Stable Party's relations with the Government followed a somewhat different pattern. When General Ne Win took over, the Stable leaders assumed that he and the Army were acting at least partially in their behalf in their grievance against U Nu. There were among the top Army leaders men who were closely associated in the past with U Ba Swe and U Kyaw Nyein and the Burma Socialist Party; the Stable party thus assumed that the Government's policies, if not favoring them, at least would not harm them. Warmly welcoming Ne Win to the Prime Ministership and strongly supporting his year's extension in office, they made every effort to appear as the sponsors and supporters of his regime and all its reforms. At the outset their assumption of favor seemed justified: more Clean than Stable political leaders were arrested; more Clean than Stable politicians were ousted from government posts (partly because the Clean AFPFL had purged so many between June and October 1958); and there was more disruption of the Clean organization than of the Stable. Two former Clean Cabinet Ministers were arrested on criminal charges -- and no Stable ex-Ministers. In retrospect, however, this appears to have been more a matter of chance than design on the part of the Government. In the series of municipal elections which took place at the end of 1959, the Stable AFPFL found that the Government would do nothing on its behalf and, from then through the February elections, it became as strongly opposed to the Interim regime as the Clean party.

Throughout the whole of General Ne Win's administration there was one point on which political leaders agreed: they accepted at face value the General's pledge that he would call national elections to return the Government to civilian political leadership -- sooner or later. Except that he did just that, it is a question whether the General had as much faith in them as they had in him. That he was dedicated to parliamentary democracy, no one doubted, and he obviously considered parties necessary institutions for the operating of Burmese democracy. For the actual parties which he saw functioning before him over the previous decade, however, he must have had little or no use. From the point of view of a man dedicated to speed, efficiency, authority and integrity in government, all three of Burma's major political parties would be almost worthless. The NUF, dedicated to radical change of the Constitution, was a danger the country could ill afford. The Clean and Stable AFPFLs since the split had shown themselves to be petty, vicious, poorly disciplined and indecisive. Their leaders condoned internal corruption and were neither able to cope

38/ According to U Nu, it was General Ne Win's statement, that only the Communists and pro-Communists opposed the Government, which caused the Clean AFPFL to change its position. U Nu said if he had voted to oppose an extension he would have fallen into his opponent's trap of being dubbed pro-Communist. "This charge I was not prepared to incur." The Nation, February 14 through 27, 1959, especially February 19.

with it nor to control their personal antagonisms. Party members appeared to put personal advancement and party interests ahead of national welfare. 39/ In his dealings as Prime Minister, General Ne Win kept his contacts with the political parties as such to an absolute minimum.

There were only two occasions after the Caretaker Government started its reforms when General Ne Win dealt directly with the assembled party politicians. These were the February and August sessions of Parliament in 1959, which had to be called according to the requirements of the Burmese Constitution.

Parliament was called in February because Ne Win was not prepared to hold elections in April, as originally pledged, and wished to extend his tenure. When Ne Win appeared before the Chamber of Deputies, he gave an accounting of his stewardship and explained that he could not recommend holding elections under the prevailing conditions of insecurity and would not head a Government to supervise these elections if Parliament were to call them. He further said that he was not willing to serve another term as prime minister under the limited tenure imposed on non-members of Parliament by the Constitution. If, however, Parliament wished him to serve and the Constitution could be changed, he would be willing to hold office until security conditions were achieved adequate for fair and free elections. Finally, he declared, regardless of what Parliament might later decide, he felt obligated to offer his resignation as he had lost the confidence of U Nu and the Clean AFPFL, which had originally nominated him. 40/ Almost immediately the Clean AFPFL, unwilling to force elections against Ne Win's direct opposition, agreed to support the constitutional amendment. General Ne Win was unanimously re-named Prime Minister. 41/

Other business of this session included an act establishing Burma's first compulsory military service plan and a Constitutional amendment affecting Shan representation in Parliament. The Shan feudal princes gave up their rights to sit in the Chamber of Nationalities, allowing the seats to be filled by popular elections from 1964 on. At the same time, the Shan princes agreed to surrender their feudal governing powers in return for government pensions.

In August at the annual budgetary session of Parliament there were no such fireworks. The budget was passed in a routine manner. The most important innovation of the session was an act raising the salaries of Cabinet Ministers, the Speakers and Deputy Speakers of the two Chambers and creating a new salaried post for the leader of the opposition. Most important for the country as a whole and for the political parties was

39/ This is essentially the indictment of the AFPFL organization and membership which U Nu made in 1956 when, taking a year's leave of absence from the prime ministership, he attempted to cleanse and reorganize his party.

40/ Government in the Union of Burma, op. cit., pp. 18-23.

41/ Ibid., p. 17. For his second election as Prime Minister, Ne Win had 32 nominations -- 20 from the Stable AFPFL, 7 from the Clean, and 5 from various "independent" political groups.

General Ne Win's announcement that the Government was prepared to hold the elections early in 1960.

General Ne Win and his Government undoubtedly injured and outraged almost all of Burma's major political leaders at one time or another. Yet the injuries were unintended in the sense that they were incidental to the reform programs. Political parties as such were not governmental targets. It was to rejuvenate the governmental services that the incompetent were fired; to increase government economy that outstanding loans were called in; to eliminate causes for partisan conflict that government laborers were forbidden to join politically oriented trade unions; and to increase personal and property security that the anti-crime drive was as ruthless as it was. Yet each one of these programs tended to undermine the various organizations which had developed as the bases of political strength. Early in February 1959, by which time 108 politicians had been arrested, a Government spokesman publicly announced that they had been arrested not because they were politicians but because they all had violated criminal law. 42/

The closest the Ne Win regime came to organizing a political party was its establishment of the National Solidarity Association movement, intended as a network of citizens' associations throughout the country in both urban and rural areas. The local units were to be non-political watch-dog organizations guarding against economic insurgency and encouraging civic responsibility. In fact while the movement, otherwise manipulated, certainly could have become a separate party, it did not compete even in the local elections. 43/ Recently, U Nu ordered the central executive committee to disband, on the grounds that the need for the NSA was over.

#### The 1960 General Election 44/

With the Government's August 13 announcement of the coming elections, campaigning, which in fact had never ceased during the Interim Regime increased rapidly -- especially in the Clean AFPFL. Strangely, the Stable party, which was known to be far better organized throughout the country, started slowly. As events were to prove, it was grossly over-confident of its organization and support.

U Nu toured widely through the country, campaigning as the underdog and posing as the champion of democracy against unnamed "fascists." He promised if elected to make Buddhism the State Religion and guaranteed to support statehood for the Arakanese and the Mons. As always, he was received by large and enthusiastic crowds, who responded to his happy

42/ The Nation, February 8, 1959

43/ For a fuller account of the National Solidarity Associations, see Richard Butwell, "The New Political Outlook in Burma," Far Eastern Survey, February 1960, pp. 21-27.

44/ See Richard Butwell and Fred von der Mehden, "The 1960 Election in Burma," Pacific Affairs, June 1960, pp. 144-157; and Lee S. Bigelow, "The 1960 Election in Burma," Far Eastern Survey, May 1960, pp. 70-74 for fuller discussions of the elections.

combination of qualities -- his exceedingly attractive personality, simple earthy wit and charm, his deep devotion to his religion and his sincerity which he superbly projects.

In effect, U Nu had started his campaign long before the elections were announced in a smashing May Day attack on the "Swe-Nyein leaders" and "some elements of the Burma Army" -- rightist totalitarians who were ruthlessly suppressing the Clean AFPFL in favor of the Stable and were leading the country to inevitable dictatorship. The Nation began its account with: "Ex-Prime Minister Nu, who loves a crowd and whom the crowd loves, packed something like 100,000 into Martyrs Hill yesterday..." On the same page, it carried a briefer story reporting on Ba Swe's speech to a crowd of 30,000, also on May Day, in which he blamed all of Burma's troubles on U Nu's "power sickness." 45/

Until they had had the results of the municipal elections in November and December 1959, where the Clean AFPFL won in 31 of 41 towns, Ba Swe and his colleagues apparently, saw no need to match Nu's excessive campaigning. The returns showed clearly the error of the Stable party's tactics. Even in Moulmein, where U Ba Swe staked his political reputation on a Stable victory, the Clean party won with a landslide. It was thought later that, among other factors, claiming Army favor for the Stable candidates had not helped the party with the voters -- the irony being that any favor extended by the Government or the Army, despite U Nu's charges, was exceedingly small.

By this time in the campaign U Nu had seized upon all the major popular issues for the Clean AFPFL. The Stable party had lost the initiative and was never able to regain it. When U Ba Swe and U Kyaw Nyein followed U Nu's example of becoming Buddhist monks for a brief period, their previous lack of interest in religion undermined the popular appreciation of their gesture. Basically, the one great weakness in the Stable party's campaign was that it lacked U Nu -- or a spokesman who could rival him in popularity and veneration.

Perhaps the only man in Burma who approached this national status was General Ne Win -- who was unavailable even as a supporter for either party. As he had done throughout his administration, he warned both the civil servants and his Army subordinates to maintain absolute impartiality toward the election. His statement of principles is clear, if not entirely encouraging: "Let the country make its own choice. It will get the Government it deserves." 46/ It is ironic that Burma's President should have chosen this election as the first time publicly to remind a Prime Minister of his administrative duties when it was this Prime Minister who ultimately gave Burma its fairest and freest elections. 47/ In a letter published on January 20, 1960, President Win Maung reminded General Ne Win of his pledge of impartiality, congratulated him on his orders to the Army and civil service, and then warningly drew his attention to a case of strong partisanship on the part of government officials

45/ The Nation, May 2, 1959.

46/ The Nation, December 22, 1959.

47/ On the role of the Burmese President, see above, particularly Chapter II, pp. 33-36.

in the President's own election district. He requested Ne Win to see to it that his orders were being properly carried out. 48/

The result of the February 6 election for the all-important Chamber of Deputies was an overwhelming victory for U Nu and his party. Of the 235 districts where the voting was held on time, the Clean party and its associates won 168 while the Stable party and its associates won only 45. Furthermore, the Stable party saw most of its top leaders ( U Ba Swe, U Kyaw Nyein and the men who had been high in the united AFPFL) go down in defeat. The NUF failed to win a single seat. The results were almost identical in the elections for the Chamber of Nationalities, which were held later in the month.

The victory (more sweeping even than those in 1951-52 and 1956 when the AFPFL was a unified party) returned Burma to the one-party rule which it has known ever since independence, except for the brief period from June to October 1958. More than this, it showed U Nu to be the country's dominant political leader, now in his own right. If he is able to maintain discipline within his party, he has the power to shape Burma's future as he sees fit.

On April 4, General Ne Win stepped out of office and back to his role as Commander in Chief of Burma's Defense Forces. The 70 top military men who had served as his administrative officers returned to their regular military assignments. U Nu and the new Pyidaungsu (Union) party took over the control of the Government.

The Army has proved itself to be an effective device for checking and correcting political excesses without abusing its power -- and willing, at least once, to retire voluntarily from political control.

Economic conditions in the country which Nu inherited from Ne Win in April were generally healthy and apparently stable. The 1959 rice crop was excellent and, through improved and imaginative marketing techniques, the Caretaker Government had already sold 75 percent of the 2 million ton exportable surplus, thus assuring the Union Party Government of adequate foreign exchange reserves. These reserves, totaling \$158 million, were the highest since the break in the world rice market in 1953. Burma's gross national product of about \$1,200,000,000 was for the first time since World War II practically equal to that of the pre-war period although, because of the increase in population, the per capita income, estimated at \$57, was still far below pre-war levels. Along with its other reform programs, the Interim Regime was able to continue in Burma Southeast Asia's highest rate of capital formation (20.3 percent of the country's gross national product) and lowest rate of consumer expenditures (64.2 percent), with government expenditures absorbing the rest. All these developments reflected the basic strength of Burma's economy as Nu stepped in.

In the field of foreign investments, too, despite the Interim Regime's wariness of foreign economic ventures, the Government turned over an improved situation to the Union Party. For the fifth year running, there was a net inflow of private foreign capital and, for 1959, this was three times as large as the inflow in 1958. Although it was probably the improved security conditions which accounted largely for this gain, the

the Government's Investment Act of 1959 also improved the business and administrative atmosphere. This act gave firm guarantees to foreign investors that their ventures would not be nationalized for at least ten years and provided for tax benefits and the repatriation of profits and capital.

On the domestic scene, through a combination of price controls and other restrictions, the Interim Regime reduced the cost of living index to the lowest point since 1954. On a scale where the year 1958 was set as 100, the average cost of living was reduced for 1959 to 88.9 and, even though prices began to rise in early 1960, the Nu Government inherited a situation where the cost of living index was 95.2. Similarly, although there had been periodic shortages of imported consumer goods during the Ne Win regime, when it left office the supply of these goods on the Burmese market was considered adequate.

Contributing to the general atmosphere of economic stability, the Government's stringent enforcement of labor legislation and its efforts to separate labor organizations from political parties, an unusual atmosphere of labor peace existed throughout the country and there were almost no strikes. This calm was perhaps deceptive as in a sense the military regime's firm control tended to transfer endemic problems to the incoming Government.

In fact, many of the country's economic problems, though reduced in severity by the Ne Win reforms, were essentially handed right back to U Nu: the continued insurgency, the shortage of Burmese managerial and technical personnel, the inadequacies of Burma's transportation systems and the shortage of both Burmese and foreign capital in the country. Further, Burma's continued dependence upon a single export (rice) for almost all its foreign exchange leaves its economy seriously vulnerable. Nevertheless, the general state of economic health is such that, with even moderately efficient administration, an incoming government would be most unlikely to fail over economic issues. The major test will be rather in the political and administrative areas, precisely where U Nu's Government failed in 1958.

U Nu has been given a rare second chance to make parliamentary democracy work. If he and his colleagues fail to make good use of this reprieve, they may be required once again to surrender control to the Army. As Commodore Than Pe, the Vice Chief of Staff (Navy) reminded the public in reassurance and warning: "I would like to make a statement for the information of the public. Whenever the Nation is at the cross-roads of a crisis, the Armed Forces will always be alert and ready to come to the aid of the nation. We will always be ready and willing to protect the ludu [the common man] and to carry out any responsibility entrusted to us." 49/

The world's political reporters have been properly impressed by the way in which General Ne Win carried out this trust. 50/ Undoubtedly the

49/ The Nation, March 29, 1960. This statement came as the conclusion to Commodore Than Pe's Armed Forces Day address, which was, in effect, the swan song of the Caretaker Government before it stepped out.

50/ Only recently Ne Win was nominated for the 1960 Ramon Magsaysay award for outstanding governmental service but, explaining he could not accept an award for merely doing his duty, he has declined the honor. The Nation, August 4, 1960.

greatest credit for Burma's survival of its political crisis belongs personally to the General. Had it not been for his deep devotion to Burma's emerging constitutional democracy and his personal distaste for political power, the outcome of the "bloodless takeover" in 1958 might well have followed the more usual course to military dictatorship.

The military regime has left its mark on the constantly developing system of Burmese government. Many of its achievements will certainly be lost -- some intentionally, to satisfy disgruntled supporters of the new Government, and some inadvertently, through the loss of administrative drive and energy, which so far in Burma seems to be almost exclusively an Army attribute. Nevertheless, it is safe to predict that at the very least no future Burmese Government will dare allow the country to sink so far into chaos and stagnation as it did in 1958.

Where Mr. Furnivall in September 1958, with little but optimism to support him, could only ask for an increase of faith, hope and charity, inside and outside Burma, the developments of these past two years have placed the hopes and expectations for Burma's continued growth on a foundation of fact.

Chevy Chase, Maryland  
August 27, 1960



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